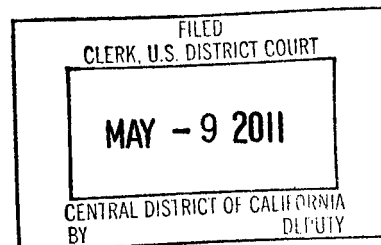


COPY

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Christopher Lovrien (State Bar No. 230546)  
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Los Angeles, CA 90071-2300  
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cjlovrien@jonesday.com

Attorneys for Defendant  
County of Los Angeles



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**SACV11-00707 JVS(RNB)**

MICHAEL GAMST, CHRISTIE ACOSTA,  
KEVIN ADAMS, PAUL ARROYO,  
FABIAN BARRAZA, RYAN BODILY,  
YOLANDA CABADA, DARREN  
COOPER, DANIEL CORTÉZ, JR.,  
RONALD CROMWELL, DAVID  
CUEVAS, ALLEN DAVIS, BASET  
FATAH, ROBERT GALLEGOS,  
CHRISTOPHER GERAKIOS, MICHAEL  
GREENE, JESUS GUERRERO, VICTOR  
GUTIERREZ, ANTHONY HERNANDEZ,  
DAVID JUST, JOHN KLEE II, JORGE  
LAZARO, JUAN LOZANO, LLOYD  
NELSON, JR., BINH NGUYEN, ERIC  
PENA, STEVEN PRIETO, VICTOR  
RAMIREZ, XAVIER RIVAS, DARREN  
ROBINSON, ROBERT ROMERO, JUSTIN  
RUSSELL, JAE SEUNG, MANUAL  
SANDOVAL, WAI HENG SOOHOO,  
EUGENIO STEWART, ARTURO  
VALENCIA, ROBERT VIEIRA, RYAN  
WELLS, EMMETT WILKS, JR., ROGER  
YU, ANDREW ZAMORA, JOSÉ  
ZAMORA,

Case No.

**NOTICE OF REMOVAL  
OF CIVIL ACTION  
FROM STATE COURT**

[28 U.S.C. §§ 1331, 1367,  
1441, and 1446]

Plaintiffs,

v.

COUNTY OF LOS ANGELES, a public  
entity, COUNTY OF LOS ANGELES  
SHERIFF'S DEPARTMENT, a law  
enforcement agency in Los Angeles County,  
LEE BACA, an individual, LARRY

1 WALDIE, an individual, ED ROGNER, an  
individual, KEVIN HEBERT, an individual,  
2 WILLIAM FUJIOKA, an individual,  
PAMELA JOHNSON, an individual,  
3 GARY GREENWOOD, an individual,  
ANDREW JACOB, an individual, KEVIN  
4 ZABORNIAK, an individual, CECILIA  
RAMIREZ, an individual, JOE SALAS, an  
5 individual, JILL DESCHAMPS, an  
individual, REGINALD MEREDITH, an  
6 individual, RICHARD CONLEY, JR., an  
individual, WILLIAM KENNEDY, an  
7 individual, ROBERT ENGEL, an  
individual, DEPUTY BASS, an individual,  
8 PROFESSIONAL PEACE  
OFFICERS ASSOCIATION aka PPOA, a  
9 union entity, KEITH SMITH, an individual,  
LISA GARRET, an individual, RALPH  
10 PLASENCIA, an individual, ANGELA  
HUNT, an individual, and DOES 1 through  
11 100, inclusive,

12 Defendants.

1 TO THE CLERK OF THE ABOVE ENTITLED COURT:

2 PLEASE TAKE NOTICE THAT COUNTY OF LOS ANGELES,  
3 defendant in the action entitled *Gamst et al. v. County of Los Angeles et al.*, Case  
4 No. 30-2011-00460752-CU-OE-CXC, filed in the Superior Court for the State of  
5 California, County of Orange, removes that action to the United States District  
6 Court for the Central District of California pursuant to 28 U.S.C. § 1331, § 1367, §  
7 1441 and § 1446. The grounds for removal are as follows:

8 1. The Complaint in this state court action was filed on March 23, 2011  
9 in the Superior Court of the State of California in and for the County of Orange,  
10 Case No. 30-2011-00460752-CU-OE-CXC, captioned *Gamst et al. v. County of*  
11 *Los Angeles et al.*

12 2. Defendant County of Los Angeles was served with a summons and  
13 copy of the complaint on April 25, 2011.

14 3. This Notice is being filed with this Court within thirty (30) days after  
15 County of Los Angeles was served with a copy of Plaintiff's initial pleading setting  
16 forth the claims for relief upon which Plaintiff's action is based, in accordance with  
17 28 U.S.C. § 1446(b).

18 4. This action is a civil action over which this Court has original  
19 jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this  
20 Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b) in that it  
21 arises under 42 U.S.C. § 1983.

22 5. This Court has supplemental jurisdiction over the related state law  
23 claims in this action under 28 U.S.C. § 1367, because those state law claims form  
24 part of the same case or controversy as the federal claim over which this Court has  
25 original jurisdiction.

26 6. Plaintiff filed this case in the Superior Court of California, County of  
27 Orange. Therefore, the case may properly be removed to the Southern Division of  
28 the Central District of California. 28 U.S.C. § 1441(a). As discussed in the

1 contemporaneously filed Notice of Related Cases, this action is closely related to an  
2 action in the Western Division of the Central District of California, *Esparza et al. v.*  
3 *County of Los Angeles et al.*, Case No. CV11 02589 JFW (Ex), which was filed  
4 March 28, 2011, and is currently pending before The Honorable John F. Walter. As  
5 such, Defendant believes this case should be related to *Esparza* and transferred to  
6 the Western Division of the Central District of California.

7       7. This case is also related to a simultaneously filed action in the Superior  
8 Court of California, County of Orange, captioned *Coker et al. v. County of Los*  
9 *Angeles et al.*, Case No. 30-2011-00460754-CU-OE-CXC. The plaintiffs in *Gamst*  
10 and *Coker* have both filed Notices of Related Case in their respective state cases.  
11 Defendant Los Angeles County is also removing *Coker* to the Central District of  
12 California, Southern Division, and requesting its transfer to Judge Walter, Western  
13 Division, as *Coker* is also related to *Esparza*.

14       8. In accordance with 28 U.S.C. § 1446(a), true and correct copies of all  
15 process, pleadings, and orders served upon County of Los Angeles in the state court  
16 action are attached hereto as Exhibit A.

17       9. To the County's knowledge, no defendant other than County of Los  
18 Angeles has been served in the state court action and thus joinder of the other  
19 defendants in this Notice of Removal is not necessary. *Salveson v. Western States*  
20 *Bankcard Ass'n*, 731 F.2d 1423, 1429 (9th Cir. 1984) (*superceded by statute on*  
21 *unrelated grounds*, as noted in *Ethridge v. Harbor House Rest.*, 861 F.2d 1389,  
22 1392 n.3 (9th Cir. 1988).

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Dated: May 9, 2011

Respectfully submitted,

JONES DAY

By: Elwood Lui, sup case  
Elwood Lui

Attorneys for Defendants

LAI-3130346v1

# Exhibit A

# SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):

COUNTY OF LOS ANGELES, a public entity  
\*\*\*\*\* See Additional Parties Attachment \*\*\*\*\*

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

MICHAEL GAMST, CHRISTIE ACOSTA, KEVIN ADAMS,  
\*\*\*\*\* See Additional Parties Attachment \*\*\*\*\*

FILED SUM-100  
FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
2011 APR 25 PM 4:00  
ELECTRONICALLY FILED  
SC/Superior Court of California,  
County of Orange  
COUNTY OF LOS ANGELES  
03/23/2011 at 10:19:46 AM  
Clerk of the Superior Court  
By Maarit H Nordman, Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. (AVISO) Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte lo podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desecher el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Orange County Superior Court

Civil Complex Center

751 West Santa Ana Blvd., Santa Ana, California 92701

Judge David C. Velasquez

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Joel W. Baruch, 2020 Main Street, Suite 900, Irvine, CA 92614 (949) 864-9662

CASE NUMBER:  
(Número) 30-2011-00460752-CU-DE-CXC

DATE: 03/23/2011 ALAN CARLSON, Clerk of the Court (ria) Maarit H Nordman, Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

Maarit H Nordman

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): COUNTY OF LOS ANGELES, a public entity

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.80 (authorized person)

4. ☒ other (specify) a public entity
4. ☐ by personal delivery on (date):



SUM-200(A)

SHORT TITLE: Gamst, et al. v. County of Los Angeles, et al.	CASE NUMBER:
--	--------------

## INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☒ Plaintiff    ☐ Defendant    ☐ Cross-Complainant    ☐ Cross-Defendant

PAUL ARROYO, FABIAN BARRAZA, RYAN BODILY, YOLANDA CABADA, DARREN COOPER, DANIEL CORTEZ, JR., RONALD CROMWELL, DAVID CUEVAS, ALLEN DAVIS, BASET FATAH, ROBERT GALLEGOS, CHRISTOPHER GERAKIOS, MICHAEL GREENE, JESUS GUERRERO, VICTOR GUTIERREZ, ANTHONY HERNANDEZ, DAVID JUST, JOHN KLEE II, JORGE LAZARO, JUAN LOZANO, LLOYD NELSON, JR., BINH NGUYEN, ERIC PENA, STEVEN PRIETO, VICTOR RAMIREZ, XAVIER RIVAS, DARREN ROBINSON, ROBERT ROMERO, JUSTIN RUSSELL, JAE SEUNG, MANUAL SANDOVAL, WAI HENG SOOHOO, EUGENIO STEWART, ARTURO VALENCIA, ROBERT VIEIRA, RYAN WELLS, EMMETT WILKS, JR., ROGER YU, ANDREW ZAMORA, JOSE ZAMORA,

Page 1 of 2

Page 1 of 1



SUM-200(A)

SHORT TITLE: Gamst, et al. v. County of Los Angeles, et al.	CASE NUMBER
--	-------------

## INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff ☒ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, a law enforcement agency in Los Angeles County, LEE BACA, an individual, LARRY WALDIE, an individual, ED ROGNER, an individual, KEVIN HEBERT, an individual, WILLIAM FUJIOKA, an individual, PAMELA JOHNSON, an individual, GARY GREENWOOD, an individual, ANDREW JACOB, an individual, KEVIN ZABORNIK, an individual, CECILIA RAMIREZ, an individual, JOE SALAS, an individual, JILL DESCHAMPS, an individual, REGINALD MEREDITH, an individual, RICHARD CONLEY, JR., an individual, WILLIAM KENNEDY, an individual, ROBERT ENGEL, an individual, DEPUTY BASS, an individual, PROFESSIONAL PEACE OFFICERS ASSOCIATION aka PPOA, a union entity, KEITH SMITH, an individual, LISA GARRETT, an individual, RALPH PLASENCIA, an individual, ANGELA HUNT, an individual, and DOES 1 through 100, inclusive.

Page 2 of 2

Page 1 of 1

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 2 Nikki Fermin SBN 271331  
 3 LAW OFFICES OF JOEL W. BARUCH, P.C.  
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8 Thomas A. Pistone SBN 77774  
 9 Eric Medel SBN 211808  
 10 Mitchell Reichmann SBN 238225  
 11 Aaron Watts SBN 246095  
 12 PISTONE & WOLDER LLP  
 13 2020 Main Street, Suite 900  
 14 Irvine, California 92614-8203  
 15 Tel: (949) 622-8980  
 16 Fax: (949) 622-8985

17 Attorneys for Plaintiffs MICHAEL GAMST, et al.

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 19 **FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER**

20 MICHAEL GAMST, CHRISTIE ACOSTA,  
 21 KEVIN ADAMS, PAUL ARROYO,  
 22 FABIAN BARRAZA, RYAN BODILY,  
 23 YOLANDA CABADA, DARREN  
 24 COOPER, DANIEL CORTEZ, JR.,  
 25 RONALD CROMWELL, DAVID  
 26 CUEVAS, ALLEN DAVIS, BASET  
 27 FATAH, ROBERT GALLEGOS,  
 28 CHRISTOPHER GERAKIOS, MICHAEL  
 GREENE, JESUS GUERRERO, VICTOR  
 GUTIERREZ, ANTHONY HERNANDEZ,  
 DAVID JUST, JOHN KLEEH II, JORGE  
 LAZARO, JUAN LOZANO, LLOYD  
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 PENA, STEVEN PRIETO, VICTOR  
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 ROBINSON, ROBERT ROMERO,  
 JUSTIN RUSSELL, JAE SEUNG,  
 MANUAL SANDOVAL, WAI HENG  
 SOOHOO, EUGENIO STEWART,  
 ARTURO VALENCIA, ROBERT VIEIRA,  
 RYAN WELLS, EMMETT WILKS, JR.,  
 ROGER YU, ANDREW ZAMORA, JOSE  
 ZAMORA,

Plaintiffs,

CASE NO: 30-2011-00460752-CU-05-CXC

**COMPLAINT FOR DAMAGES AND  
 DEMAND FOR JURY TRIAL**

Judge David C. Velasquez

1 -VS-

2  
3 COUNTY OF LOS ANGELES, a public  
4 entity, COUNTY OF LOS ANGELES  
5 SHERIFF'S DEPARTMENT, a law  
6 enforcement agency in Los Angeles  
7 County, LEE BACA, an individual,  
8 LARRY WALDIE, an individual, ED  
9 ROGNER, an individual, KEVIN  
10 HEBERT, an individual, WILLIAM  
11 FUJIOKA, an individual, PAMELA  
12 JOHNSON, an individual, GARY  
13 GREENWOOD, an individual,, ANDREW  
14 JACOB, an individual, KEVIN  
15 ZABORNIK, an individual, CECILIA  
16 RAMIREZ, an individual, JOE SALAS,  
17 an individual, JILL DESCHAMPS, an  
18 individual, REGINALD MEREDITH, an  
19 individual, RICHARD CONLEY, JR.,  
20 an individual, WILLIAM KENNEDY,  
21 an individual, ROBERT ENGEL, an  
22 individual, DEPUTY BASS, an individual,  
23 PROFESSIONAL PEACE  
24 OFFICERS ASSOCIATION aka PPOA,  
25 a union entity, KEITH SMITH, an  
26 individual, LISA GARRETT, an individual,  
27 RALPH PLASENCIA, an individual,  
28 ANGELA HUNT, an individual, and DOES  
1 through 100, inclusive,

Defendants.

**GENERAL ALLEGATIONS**

1. There are 43 named Plaintiffs in this action. All plaintiffs named in this Complaint are or were residents of the State of California.

2. The two primary defendants in this action are Defendant COUNTY OF LOS ANGELES (hereafter LA COUNTY) and Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT (hereafter LASD or LA COUNTY SHERIFF'S DEPARTMENT). It is understood that Defendant LA COUNTY may later take the position that Defendant LA COUNTY SHERIFF'S DEPARTMENT should be dismissed as a party defendant because that law enforcement agency is an entity within LA COUNTY. If such a request is made, the plaintiffs named herein will consider dismissing Defendant LA COUNTY SHERIFF'S DEPARTMENT with the understanding that the unlawful acts and omissions of this law enforcement agency and its employees, representatives, and agents will become the responsibility of Defendant LA COUNTY.

3. There are individual defendants who will be named in this lawsuit where it is appropriate to do so. These individual defendants will be identified, where possible, in the separate causes of action which follow. On information and belief, it is alleged that all of these individual defendants are residents of the State of California. On information and belief, at least two of these individual defendants- Deputy GARY GREENWOOD and Deputy PAMELA JOHNSON- are residents of the County of Orange, State of California, which is the venue chosen for this lawsuit.

4. Up until on or about September 30, 2010, all plaintiffs were sworn peace officers in the State of California pursuant to the provisions of Penal Code §830.31. Most of the plaintiffs herein were POST-Certified peace officers in the State of California. As will be noted more specifically herein, 34 of the named 43 plaintiffs in this Complaint are no longer sworn peace officers because of the unlawful actions of the Defendants; 9 of the named plaintiffs in this Complaint have become probationary deputy sheriffs with LASD, but and have sustained various damages because of the unlawful actions of the defendants.

5. The named plaintiffs herein were at least satisfactorily-performing sworn

1 police officers, and, further, were medically qualified to perform the peace officer position at  
2 the Office of Public Safety when the adverse employment actions occurred. Defendants LA  
3 COUNTY and LASD, however, rated about 79% of these police officers as deficient for  
4 one reason or another in 2010.

5 6. There will be two lawsuits filed in connection with this action by counsel.  
6 This is the smaller lawsuit in terms of number of plaintiffs (43) because it pertains to those  
7 plaintiffs who are 39 years of age or younger as of September 30, 2010. The other lawsuit  
8 will be for those 125 plaintiffs who are under the age of 40 years as of September 30, 2010.

9 7. Up until on or about September 30, 2010, most, if not all, of the 43 plaintiffs  
10 named in this Complaint were certified as competent and qualified peace officers by the  
11 Commission on Peace Officer Standards and Training (POST), which was established by the  
12 California legislature in 1959. However, as a result of the unlawful actions of the  
13 defendants, many of the plaintiffs in this action have lost their POST certifications. Further,  
14 many of the plaintiffs herein have lost their ability to wear badges and carry weapons, and  
15 some have since experienced episodes that have threatened their safety and the safety of their  
16 families because they are now "civilians" and have been recognized by thugs with whom  
17 they formerly had dealings as peace officers with the OPS.

18 8. Up until on or about September 30, 2010, the named plaintiffs were sworn  
19 peace officer employees of the now-defunct Los Angeles County Office of Public Safety  
20 (hereafter OPS). After on or about September 30, 2010, the OPS ceased to exist and,  
21 therefore, those former police officer employees of OPS who were not permitted to laterally  
22 transfer into law enforcement positions with Defendant LA COUNTY SHERIFF'S  
23 DEPARTMENT, have ceased to become peace officers in the State of California. It is  
24 further anticipated that some of the former OPS peace officer employees who were permitted  
25 to laterally transfer into law enforcement positions with the LASO will lose their jobs due to  
26 further unlawful actions of the defendants while this lawsuit is pending.

27 9. The former OPS was formed in 1998 by consolidating three Los Angeles  
28 County security and law enforcement agencies—the Department of Parks and Recreation

1 Police, the Department of Health Services, and the Internal Services Department's Safety  
2 Police.

3 10. At its apex, the OPS was the fourth largest law enforcement agency in Los  
4 Angeles County—it employed about 580 sworn police officers and about 160 civilian  
5 personnel. The OPS also utilized about 750 contract security guards. The mission statement  
6 of the OPS was as follows:

7 "To provide protection for patrons, employees, and  
8 properties of county departments which contract for  
9 such services, and to provide a safe environment  
10 for those who use county parks and recreation areas.  
11 The Office of Public Safety is committed to maintaining  
12 a level of professional competence among its sworn  
13 personnel that will ensure the safety of those receiving  
14 services, as well as protecting the safety of our police  
15 officers."

16 11. Prior to on or about September 30, 2010, the OPS maintained four bureaus—  
17 the Administrative Services Bureau, the Facilities Bureau, the Parks Services Bureau, and the  
18 Health Services Bureau. The OPS had several specialized units, including Internal Affairs,  
19 Background Investigations, Canine, Boat, Tactical Response Force, Weapons of Mass  
20 destruction, and a reserve Mounted Unit.

21 12. The OPS recruits had to be at least 20 years and six months old at the time of  
22 hire, had to have a high school diploma or GED equivalent, had to have a California driver's  
23 license, and had to pass all phases of the selection process, consisting of a written  
24 examination, an oral interview, a background investigation with a polygraph examination,  
25 and medical and psychological examinations.

26 13. OPS sworn police personnel were killed and injured in the line of duty  
27 protecting the residents of Los Angeles County. OPS sworn personnel were proud of their  
28 peace officer status and their role as public servants. On a daily basis, they would put their



1 respective lives on the line for citizens, including, but not limited, those private citizens who  
2 worked "civilian" jobs for Defendant LA COUNTY. As the story unfolds, these same  
3 private citizens who worked "civilian" jobs for Defendant LA COUNTY would demonstrate  
4 an almost unprecedented zeal and delight in destroying the careers of these fine OPS officers.

5 14. The OPS strictly adhered to the Public Safety Officer Procedural Bill of Rights  
6 (hereafter POBRA), which is codified at Government Code §§ 3300-3313 when one of its  
7 officers was involved in an allegation of misconduct or when a punitive action was about to  
8 or had been taken by the OPS.

9 15. Plaintiffs are informed and believe, and thereon allege, that the OPS officers  
10 involved in this action were in fact more qualified to serve than new hires for Defendant LA  
11 COUNTY SHERIFF'S DEPARTMENT, since OPS required its officers to have either a  
12 POST certification and/or prior law enforcement experience whereas said Defendant LA  
13 COUNTY SHERIFF'S DEPARTMENT did not have those requirements for its new hires.

14 16. In October, 1998, class members who were OPS police officers filed a  
15 protected action, alleging causes of action for violations of the California Fair Employment  
16 and Housing Act (FEHA, Government Code §12940 et seq.) and federal law, including Title  
17 VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.). The essence of the lawsuit  
18 alleged racial and/or national origin discrimination against the Defendants LA COUNTY and  
19 LA COUNTY SHERIFF'S DEPARTMENT. The class action was entitled George Frank, et  
20 al. v. County of Los Angeles, et. al., and the venue was in the Los Angeles County Superior  
21 Court. Ultimately, the case was tried by a jury and the aggrieved plaintiffs were awarded  
22 millions of dollars.

23 17. On appeal, the decision in the Frank case was reversed by the Second District  
24 Court of Appeal in a decision on or about April 12, 2007. The California Supreme Court  
25 denied review on or about August 8, 2007.

26 18. Following the verdict in the trial court in the Frank lawsuit, members of  
27 Defendant LA COUNTY's Board of Supervisors Angeles County Board of Supervisors  
28 publically declared their intention to "disband" the OPS after the legal proceedings were

1 culminated. In particular, current Supervisor Don Knabe, on or about June 20, 2002, stated  
 2 words to the effect of "In the face of \$100 million, disbanding (the OPS) is an option we  
 3 have to look at...It has to be something that would be under consideration, to eliminate  
 4 them...I just consider this award outrageous...It's unbelievable that someone can rule against  
 5 us like this." Current Supervisor Michael Antonovich echoed the sentiments of Supervisor  
 6 Knabe, stating words to the effect of "the sad part is that many people in the OPS could end  
 7 up losing their position because of the action of their union." It has taken awhile, but the  
 8 Board of Supervisors has made good on their "threat". The OPS has now been disbanded,  
 9 and hundreds of lives and careers have been decimated or diminished.

10 19. Almost immediately following the Supreme's Court denial of review of the  
 11 appellate court decision in August, 2007, Defendant LA COUNTY and its CEO initiated a  
 12 feasibility study on September 20, 2007 to be conducted of the OPS law enforcement  
 13 organization. This action was not a coincidence. Reportedly, at issue in the feasibility study  
 14 was to determine which option, either consolidation or an independent department, would be  
 15 the most viable for the County of Los Angeles. In fact, it later became apparent that the  
 16 initiation of a feasibility study was a ruse and was an effort to disband the OPS at the behest  
 17 of LA COUNTY's Board of Supervisors who were still smarting over the jury verdict  
 18 received by the OPS in the Frank lawsuit. Plaintiffs are informed and believe, and thereon  
 19 allege, that Defendant LA COUNTY immediately started "take over" studies of the OPS by  
 20 Co-Defendant LA COUNTY SHERIFF'S DEPARTMENT for the purpose of disbanding the  
 21 OPS because of the angst created by the filing and prosecution of the Frank lawsuit by OPS  
 22 sworn police officer personnel.

23 20. After the "take over" studies were completed, the Board of Supervisors of  
 24 Defendant LA COUNTY set aside sufficient funding on or about September 22, 2009 to  
 25 complete what it called the "merger" between the OPS and Co-Defendant LA COUNTY  
 26 SHERIFF'S DEPARTMENT. It also became apparent that, in 2009, it would not save, and  
 27 would cost, the County money to "merge" the functions and personnel of the OPS and  
 28 Defendant LA COUNTY SHERIFF'S DEPARTMENT. In these strained economic times,



1 any employment action in Defendant LA COUNTY which costs, rather than saves, the  
2 citizens money has to be viewed as unlawfully motivated.

3 21. On or about December 15, 2009, the Board of Supervisors of Defendant LA  
4 COUNTY voted 4 to 1 to "merge" the OPS into Defendant LA COUNTY SHERIFF'S  
5 DEPARTMENT. At the public forum portion of the meeting, the following occurred:

6 A) Defendant LASD CAPTAIN ED ROGNER told the Board of  
7 Supervisors that "I will be commanding the transition and answering directly to the  
8 Undersheriff (i.e. Defendant LASD UNDERSHERIFF LARRY WALDIE)."

9 B) Defendant LA COUNTY CEO WILLIAM FUJIOKA admitted to the  
10 Board of Supervisors that "...essentially the OPS would no longer exist...those individuals  
11 who are qualified will become deputy sheriffs....the Sheriff will, in turn, be responsible for  
12 managing or providing the overall management of the current functions that are provided by  
13 the OPS, including park patrol and also the security of our various County facilities, from  
14 D.P.S.S., Health Services, and even this particular facility. And so we'll have a single law  
15 enforcement agency within the County of Los Angeles that I believe we should have. And  
16 we'll have our law enforcement, our Sheriff, the person responsible for law enforcement  
17 activities herein the County, responsible for what OPS currently handles."

18 C) Defendant LA COUNTY CEO WILLIAM FUJIOKA also admitted to  
19 Board of Supervisors that Defendant LA COUNTY SHERIFF LEE BACA made a personal  
20 commitment not to cut the budget for the service of the OPS functions that would soon be  
21 assumed by Defendant LASD.

22 D) Defendant LASD CAPTAIN ED ROGNER, despite his stated position  
23 to others in the management of the OPS that the planned action would violate pertinent  
24 provisions of the Public Safety Officers Procedural Bill of Rights (hereafter "POBRA" or  
25 "the POBRA"), represented to the Board of Supervisors that a polygraph examination, a  
26 background examination, an *age-appropriate* medical examination and a psychological  
27 examination, would "all be conducted".

28 E) When asked the difference between a medical examination and an "age-

1 *appropriate*” medical examination by Supervisor Antonovich, Defendant LASD CAPTAIN ED  
2 ROGNER stated as follows: “The height-weight standards for an entry level deputy sheriff at  
3 age 21 are fairly strict, and probably nobody over the age of 40 would pass those requirements,  
4 and so by doing age-appropriate, it allows the medical staff to look at the person’s total health  
5 situation, not just their height and weight, as to whether or not they feel they could still  
6 perform the functions.”

7 F) Defendant LA COUNTY CEO WILLIAM FUJIOKA represented to the  
8 Board of Supervisors as follows: “There’s one important thing though, is the overreaching  
9 point that I want to bring focus to. We are not going to compromise the standards of the LA  
10 County Sheriff’s Department. There will not be individuals who will be allowed to be part of  
11 this department, regardless of the process or program, who do not meet the qualifications or  
12 are not able to do the job. The age-appropriate medical does not compromise. The individuals,  
13 in the assessment of our occupational health division, will still be fully capable of performing  
14 this job.”

15 G) BRIAN MORIGUCHI, President of Co-Defendant  
16 PROFESSIONAL PEACE OFFICERS IN LA COUNTY (hereafter “PPOA”) and then a  
17 lieutenant in Defendant LASD, informed the Board of Supervisors that PPOA represented  
18 thousands of peace officers in Los Angeles County, including the 400 plus officers in the OPS.  
19 He represented to the Board of Supervisors that all of the OPS employees had been notified  
20 about what was to occur with respect to the so-called “merger- workforce reduction”. He also  
21 represented that the OPS officers were “overwhelmingly in favor” of the proposal for  
22 “consolidation”. He made a personal plea that the Board of Supervisors vote in favor of the  
23 planned “merger” and in favor of Co-Defendants FUJIOKA’s and BACA’s support of the  
24 “consolidation”.

25 H) Defendant LA COUNTY CEO FUJIOKA then indicated an attempt  
26 would be made to find civilian jobs within LA COUNTY for those who did not “qualify” to  
27 remain as police officers and who would suffer the action of losing their peace officer jobs.  
28 He admitted, however, that the final outcome was impossible to estimate. Even so, he

1 promised the Board of Supervisors that "we have a strong commitment to make every  
2 appropriate and every reasonable effort to address the needs" for each OPS officer.

3 22. The two members of the Board of Supervisors who had made retaliatory  
4 statements about disbanding the OPS following the trial of the aforementioned Frank case  
5 were directly involved in initiating the voting process for what was to occur. Supervisor  
6 Knabe made the motion and it was seconded by Supervisor Antonovich. The vote taken in  
7 favor of the proposal was 4-1, with Supervisor Gloria Molina the sole vote against the  
8 process.

9 23. As noted, plaintiffs are informed and believe, and thereon allege, that the  
10 "merger" of the OPS into Defendant LA COUNTY SHERIFF'S DEPARTMENT was in  
11 direct retaliation for the participation of sworn police officer personnel in the OPS in the  
12 aforesaid Frank lawsuit.

13 24. As noted, plaintiffs are informed and believe, and thereon allege, that proof of  
14 the unlawful motive of Defendant LA COUNTY in disbanding the OPS by "merging" it with  
15 Co-Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT is that the process  
16 did not save and in fact cost Los Angeles County money. Given the bleak economic forecast  
17 which existed in December, 2009, personnel moves which cost rather than save a county  
18 government money must, by definition, be prompted by an unlawful and/or retaliatory  
19 motive.

20 25. Defendant LA COUNTY is named as a defendant in this lawsuit based on the  
21 allegations in this Complaint and based on the fact that it was a public entity employer of  
22 all of the plaintiffs named in this Complaint and is still the public entity employer of many of  
23 the plaintiffs. Many of the plaintiffs herein, after they were unlawfully "disqualified" from  
24 their law enforcement positions and careers, became civilian employees of Defendant LA  
25 COUNTY, although earning a lot less money and enjoying a lot less benefits than their peace  
26 officer counterparts. Defendant LA COUNTY ignored, and continues to ignore, the fact that  
27 the former OPS officers, although County employees, were different than their civilian  
28 counterparts. Police officers in this state have rights that are not afforded to their civilian

1 counterparts in government employment. By engaging in the actions subsequently referred  
2 to herein, Defendant LA COUNTY and Defendant LA COUNTY SHERIFF'S  
3 DEPARTMENT committed wholesale violations of the POBRA and destroyed the careers  
4 and the standard of living of families of many of the OPS employees.

5       26. Defendant LA COUNTY, although claiming that the OPS was being "merged"  
6 into Defendant LA COUNTY SHERIFF'S DEPARTMENT, did not treat the job action as a  
7 true "merger". Customarily, in a true "merger", two or more entities combine to form a  
8 single entity, and sound employment policies and practices dictate that employees of each of  
9 the entities are subjected to the same scrutiny in performance and other factors where  
10 consolidation of personnel or functions is required. In other words, if polygraph  
11 examinations, background investigations, medical examinations, and psychological  
12 examinations are the methods used to determine who will remain employed after the  
13 "merger", then every person in each of the entities affected by the "merger" have to undergo  
14 those examinations and investigations. In this "merger", however, only the OPS peace officer  
15 personnel were subjected to examinations and investigations and not the deputy sheriffs from  
16 Defendant LA COUNTY SHERIFF'S DEPARTMENT—why? Because the "merger" was a  
17 ruse for disbanding the OPS in retaliation for the Frank lawsuit and because deputy sheriffs  
18 were treated differently in terms of their POBRA rights in that they could not be subjected to  
19 additional examinations and investigations because it would run afoul of their inalienable  
20 rights under the POBRA.

21       27. Defendant LA COUNTY SHERIFF'S DEPARTMENT is being named as a  
22 defendant in this lawsuit in an abundance of caution. Plaintiffs recognize that Defendant LA  
23 COUNTY SHERIFF'S DEPARTMENT is a law enforcement agency within Defendant LA  
24 COUNTY and, as with other litigation of this type, Defendant LA COUNTY will agree to  
25 assume any responsibility for damages on behalf of Defendant LA COUNTY SHERIFF'S  
26 DEPARTMENT.

27       28. There are individual defendants being named in this lawsuit as to specific  
28 causes of action. Where necessary, these individual defendants will be specifically

1 identified with the particular cause of action. Venue in Orange County, California is  
2 appropriate because one or more of these individual defendants is a resident of Orange  
3 County and has been a resident of this County at all times herein mentioned.

4 29. Each plaintiff herein has appropriately and timely filed government claims  
5 against Defendant LA COUNTY, LA COUNTY SHERIFF'S DEPARTMENT, and  
6 individual defendant to be identified later. These government claims were filed at different  
7 time. The initial government claims were filed on August 10, 2010 and were rejected on  
8 September 27, 2010. All other subsequently-filed government claims were rejected after  
9 September 27, 2010. All of the government claims filed on behalf of all 125 plaintiffs have  
10 been rejected, either by affirmative conduct or by operation of law. A copy of the  
11 government claims and the rejections for each of the 125 plaintiffs named herein will be  
12 provided upon request.

13 30. Each of the 43 plaintiffs herein has appropriately and timely filed an  
14 administrative complaint with the California Department of Fair Employment and Housing,  
15 asking for "right to sue" letters for claims regarding age discrimination, disability  
16 discrimination, and retaliation. The DFEH has recently closed its Orange County office and  
17 has now referred all administrative complaints to be filed to its office in Los Angeles County.  
18 Some of the required "right to sue" letters have been obtained and others are stuck in the  
19 backlog. The director for the DFEH's office in Los Angeles County has promised that "right  
20 to sue" letters will be provided for each plaintiff herein a timely manner. If these "right to  
21 sue" letters are not all provided by the time of the filing of this Complaint, the affected  
22 plaintiffs reserve the right to amend this Complaint to allow for those "right to sue" letters.

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**FIRST CAUSE OF ACTION**

**(RETALIATION- ARISING UNDER THE CALIFORNIA FAIR  
EMPLOYMENT AND HOUSING ACT- BY ALL PLAINTIFFS AGAINST  
DEFENDANTS COUNTY OF LOS ANGELES, COUNTY OF LOS  
ANGELES SHERIFF'S DEPARTMENT, AND DOES 1 THROUGH 100)**

31. Plaintiffs reallege and incorporate herein those matters contained in paragraphs 1 through 30 as though fully set forth.

32. In October, 1998, class members who were OPS police officers filed a protected action, alleging causes of action for violations of the California Fair Employment and Housing Act (FEHA, Government Code §12940 et seq.) and federal law, including Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.). The essence of the lawsuit alleged racial and/or national origin discrimination against the Defendants LA COUNTY and LA COUNTY SHERIFF'S DEPARTMENT. The class action was entitled George Frank, et al. v. County of Los Angeles, et. al., and the venue was in the Los Angeles County Superior Court. Ultimately, the case was tried by a jury and the aggrieved plaintiffs were awarded millions of dollars.

33. Following the verdict in the trial court in the Frank lawsuit, members of Defendant LA COUNTY's Board of Supervisors Angeles County Board of Supervisors publically declared their intention to "disband" the OPS after the legal proceedings were culminated

34. Defendant LA COUNTY, et al, appealed from the trial court verdict in which millions of dollars were awarded in the case based on a finding that the OPS class members were discriminated against on the basis of the protected class of race and/or national origin. On appeal, the decision in the Frank case was reversed by the Second District Court of Appeal in a decision on or about April 12, 2007. The California Supreme Court denied review on or about August 8, 2007.

35. Following the verdict in the trial court in the Frank lawsuit, members of Defendant LA COUNTY's Board of Supervisors Angeles County Board of Supervisors



1 publically declared their intention to "disband" the OPS after the legal proceedings were  
2 culminated. It has taken awhile, but the Board of Supervisors has made good on their  
3 "threat". The OPS has now been disbanded, and hundreds of lives and careers have been  
4 decimated.

5 36. Almost immediately following the Supreme's Court denial of review of the  
6 appellate court decision in August, 2007, Defendant LA COUNTY and its CEO initiated a  
7 feasibility study on September 20, 2007 to be conducted of the OPS law enforcement  
8 organization. This action was not a coincidence. Reportedly, at issue in the feasibility study  
9 was to determine which option, either consolidation or an independent department, would be  
10 the most viable for the County of Los Angeles. In fact, it later became apparent that the  
11 initiation of a feasibility study was a ruse and was an effort to disband the OPS at the behest  
12 of LA COUNTY's Board of Supervisors who were still smarting over the jury verdict  
13 received by the OPS in the Frank lawsuit. Plaintiffs are informed and believe, and thereon  
14 allege, that Defendant LA COUNTY immediately started "take over" studies of the OPS by  
15 Co-Defendant LA COUNTY SHERIFF'S DEPARTMENT for the purpose of disbanding the  
16 OPS because of the angst created by the filing and prosecution of the Frank lawsuit by OPS  
17 sworn police officer personnel.

18 37. After the "take over" studies were completed, the Board of Supervisors of  
19 Defendant LA COUNTY set aside sufficient funding on or about September 22, 2009 to  
20 complete what it called the "merger" between the OPS and Co-Defendant LA COUNTY  
21 SHERIFF'S DEPARTMENT. It also became apparent that, in 2009, it would not save, and  
22 would cost, the County money to "merge" the functions and personnel of the OPS and  
23 Defendant LA COUNTY SHERIFF'S DEPARTMENT. In these strained economic times,  
24 any economic program in Defendant LA COUNTY which costs, rather than saves, money  
25 has to be viewed as unlawfully motivated.

26 38. On or about December 15, 2009, the Board of Supervisors of Defendant LA  
27 COUNTY voted 4 to 1 to "merge" the OPS into Defendant LA COUNTY SHERIFF'S  
28 DEPARTMENT.

1           39. As noted, plaintiffs are informed and believe, and thereon allege, that the  
2 "merger" of the OPS into Defendant LA COUNTY SHERIFF'S DEPARTMENT was in  
3 direct retaliation for the participation of sworn police officer personnel in the OPS in the  
4 aforesaid Frank lawsuit.

5           40. As noted, plaintiffs are informed and believe, and thereon allege, that proof of  
6 the unlawful motive of Defendant LA COUNTY in disbanding the OPS by "merging" it with  
7 Co-Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT is that the process  
8 did not save and in fact cost Los Angeles County money. Given the bleak economic forecast  
9 which existed in December, 2009, personnel moves which cost rather than save a county  
10 government money must, by definition, be prompted by an unlawful and/or retaliatory  
11 motive.

12           41. Defendant LA COUNTY is named as a defendant in this lawsuit based on the  
13 allegations in this Complaint and based on the fact that it was a public entity employer of  
14 all of the plaintiffs named in this Complaint and is still the public entity employer of many of  
15 the plaintiffs. Many of the plaintiffs herein, after they were unlawfully "disqualified" from  
16 their law enforcement positions and careers, became civilian employees of Defendant LA  
17 COUNTY, although earning a lot less money and enjoying a lot less benefits than their peace  
18 officer counterparts. Defendant LA COUNTY ignored, and continues to ignore, the fact that  
19 the former OPS officers, although County employees, were different than their civilian  
20 counterparts. Police officers in this state have rights that are not afforded to their civilian  
21 counterparts in government employment. By engaging in the actions subsequently referred  
22 to herein, Defendant LA COUNTY and Defendant LA COUNTY SHERIFF'S  
23 DEPARTMENT committed wholesale violations of the POBRA and destroyed the careers  
24 and families of the OPS employees.

25           42. Defendant LA COUNTY, although claiming that the OPS was being "merged"  
26 into Defendant LA COUNTY SHERIFF'S DEPARTMENT, did not treat the job action as a  
27 true "merger". Customarily, in a true "merger", two or more entities combine to form a  
28 single entity, and sound employment policies and practices dictate that employees of each of



1 the entities are subjected to the same scrutiny in performance and other factors where  
2 consolidation of personnel or functions is required. In other words, if polygraph  
3 examinations, background investigations, medical examinations, and psychological  
4 examinations are the methods used to determine who will remain employed after the  
5 "merger", then every person in each of the entities affected by the "merger" have to undergo  
6 those examinations and investigations. In this "merger", however, only the OPS peace officer  
7 personnel were subjected to examinations and investigations and not the deputy sheriffs from  
8 Defendant LA COUNTY SHERIFF'S DEPARTMENT—why? Because the "merger" was a  
9 ruse for disbanding the OPS in retaliation for the Frank lawsuit and because deputy sheriffs  
10 were treated differently in terms of their POBRA rights in that they could not be subjected to  
11 additional examinations and investigations because it would run afoul of their inalienable  
12 rights under the POBRA.

13 43. At all times herein mentioned, Government Code §12940(h) made it an  
14 unlawful employment practice for an employer covered under the FEHA to retaliate against  
15 an employee or employees who opposed discrimination, harassment, and/or retaliation in the  
16 workplace. Plaintiffs contend that this provision against retaliation applied to Defendant LA  
17 COUNTY's dismantling of the OPS in retaliation for some of their colleagues filing and  
18 participating in the aforesaid Frank lawsuit, in that filing and participating in that lawsuit  
19 alleging race and/or national origin discrimination was an activity protected under the FEHA.  
20 Even though all plaintiffs named herein may not have been parties in the Frank lawsuit,  
21 nevertheless they were victimized by losing their peace officer jobs because of their  
22 association with those plaintiffs who were parties and with the law enforcement organization  
23 in which those parties were employed.

24 44. As a direct result of the aforesaid retaliation in violation of the FEHA, each  
25 plaintiff named herein has sustained, and will continue to sustain for a period of time in the  
26 future, compensatory damages, including, but not limited to, lost income and lost future  
27 earning capacity, in an amount according to proof at the trial of this action.

28 45. As a further direct result of the aforesaid retaliation in violation of the FEHA,

1 each plaintiff named herein has sustained, and will continue to sustain for a period of time in  
 2 the future, general (non-economic) damages, all in an amount according to proof at the trial  
 3 of this action.

4 46. Each plaintiff herein, and his or her counsel of record, are entitled to their  
 5 reasonable attorney's fees and costs in an amount according to proof after trial pursuant to  
 6 Government Code §12965(b).

## 8 SECOND CAUSE OF ACTION

9 (FAILURE TO PREVENT HARASSMENT, DISCRIMINATION, AND  
 10 RETALIATION- ARISING UNDER THE CALIFORNIA FAIR  
 11 EMPLOYMENT AND HOUSING ACT- BY ALL PLAINTIFFS AGAINST  
 12 DEFENDANTS COUNTY OF LOS ANGELES, COUNTY OF LOS  
 13 ANGELES SHERIFF'S DEPARTMENT, AND DOES 1 THROUGH 100)

14 47. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
 15 1 through 46 as though fully set forth.

16 48. At all times herein mentioned, and as more particularly appears in the General  
 17 Allegations and the First Cause of Action of this Complaint, all plaintiffs named herein were  
 18 subjected to harassment, discrimination, retaliation because of their participation in the  
 19 aforesaid Frank lawsuit, or because of their association with their police officer colleagues  
 20 who were employed by the former Office of Public Safety.

21 49. Further, at all times herein mentioned, some, but not all, of the plaintiffs named  
 22 herein were subjected to discrimination on account of their respective actual or perceived  
 23 physical or mental disabilities.

24 50. At all times herein mentioned, Government Code §12940(i) was in full force  
 25 and effect. This statute made it an unlawful employment practice for an employer in this  
 26 state to fail to take all reasonable and necessary steps to prevent harassment and  
 27 discrimination from occurring.

28 51. Defendants LA COUNTY and LA COUNTY SHERIFF'S DEPARTMENT

1 were aware that members of the Board of Supervisors wanted to "disband" the Office of  
2 Public Safety in retaliation for the filing and maintenance of the aforesaid Frank lawsuit.

3 52. On or about December 15, 2009, after feasibility and other studies were  
4 conducted, Defendant LA COUNTY decided to implement the so-called "merger/ work force  
5 reduction" for the Office of Public Safety. Because the jobs of police officers were affected  
6 by the decision to dismantle the Officer of Public Safety, Defendant LA COUNTY assigned  
7 the task of performing polygraphs and background investigations to Co-Defendant LA  
8 COUNTY SHERIFF'S DEPARTMENT. Initially, Defendant LA COUNTY required the  
9 dismantling of the Office of Public Safety and the so-called lateral transfer of former OPS  
10 police officers into deputy sheriff positions by June 30, 2010. However, because of  
11 numerous problems with completing the process, the time period was extended to September  
12 30, 2010. By September 30, 2010, almost all of the affected former OPS police officers were  
13 either working as deputy sheriffs on probation, or were working in some civilian job within  
14 Los Angeles County, or were no longer working in any capacity for Los Angeles County  
15 either because they were terminated outright or for some other reason such as having retired  
16 from the employment to avoid losing all compensation and/or privileges of having been a  
17 sworn police officer.

18 53. More specifically, following the completion of the initial process of requiring  
19 each OPS officer to undergo polygraph and background investigations administered by or  
20 under the auspices of Defendant LA COUNTY SHERIFF'S DEPARTMENT, the former  
21 OPS officers were required to undergo pre-employment medical and psychological  
22 examinations if they had "passed" the polygraph and background investigation. It is believed  
23 that these medical and psychological examinations were administered under the auspices and  
24 supervision by both Defendants LA COUNTY and LA COUNTY SHERIFF'S  
25 DEPARTMENT. As noted elsewhere herein, some of the affected plaintiffs named herein  
26 contend that the medical examinations were not "age appropriate" and the psychological  
27 examinations were utilized as a second background investigation in violation of the POBRA.  
28 Further, some of the plaintiffs named herein contend that the medical and psychological

1 examinations violated the applicable law against requiring pre-employment physical and/or  
2 psychological examinations.

3 54. Some of the plaintiffs named herein who had "passed" the polygraph and  
4 background investigations were disqualified from being "laterally transferred" into deputy  
5 sheriff positions for reasons allegedly related to their medical and/or psychological condition.  
6 Still others plaintiffs were disqualified because they allegedly "lied" in providing information  
7 about their medical or psychological condition. Some of those disqualified plaintiffs lost  
8 their police officer status and were involuntarily demoted to civilian positions with  
9 Defendant LA COUNTY. Some of these disqualified plaintiffs lost their police officer status  
10 and were terminated as opposed to demoted into a civilian position with Defendant LA  
11 COUNTY.

12 55. From and after December 15, 2009, once it became apparent that the OPS  
13 would be dismantled and subjected to the "workforce reduction/ merger", Defendant LA  
14 COUNTY had the opportunity to ensure that the process of dismantling the Office of Public  
15 Safety was performed in compliance with the anti-discrimination laws of the State of  
16 California as codified in the FEHA. In particular, Defendant LA COUNTY could have  
17 determined how many OPS police officers would be affected by the job actions to be taken  
18 and, also, the protected class status of each of those officers.

19 56. Defendant LA COUNTY, however, miserably failed and/or refused to take into  
20 account the protected status of each officer that was affected by the job action, including, but  
21 not limited to, his or her age and disability and/or participation in the aforesaid Frank lawsuit.  
22 Plaintiff are informed and believe, and thereon allege, that Defendant LA COUNTY was in  
23 such a hurry to implement the wishes of its Board of Supervisors to retaliate against the OPS  
24 by dismantling it that the protected class status of each of the officers affected by the job  
25 action was not taken into consideration. The result was that Defendant LA COUNTY  
26 violated pertinent provisions of the FEHA which were designed to prevent harassment,  
27 discrimination, and/or retaliation, and caused the hereinafter described damages to the named  
28 plaintiffs herein.

10           59. Each plaintiff herein, and his or her counsel of record, are entitled to their  
11 reasonable attorney's fees and costs in an amount according to proof after trial pursuant to  
12 Government Code §12965(b).

**(VIOLATIONS OF THE PUBLIC SAFETY OFFICERS PROCEDURAL  
BILL OF RIGHTS- VIOLATION OF GOVERNMENT CODE §3307- BY ALL  
PLAINTIFFS AGAINST DEFENDANTS COUNTY OF LOS ANGELES,  
COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, AND DOES 1  
THROUGH 100 FOR ADMINISTRATION OF POLYGRAPH  
EXAMINATIONS)**

23 61. The named plaintiffs herein were not new hires. In fact, they were still  
24 working as sworn police officers employed by Defendant LA COUNTY at the time of the  
25 job action and continued to be employed by Defendant LA COUNTY until on or about  
26 September 30, 2010. Consequently, they could not be required to take polygraph  
27 examinations as a condition for retaining their employment as sworn law enforcement  
28 officers with Defendant LA COUNTY. Moreover, each plaintiff named herein, had already

1 taken a polygraph examination and had been subjected to a background investigation before  
 2 becoming sworn police officers employed by the OPS and before obtaining their POST  
 3 certification. And, in fact, Defendant Captain ED ROGNER admitted to at least one the  
 4 plaintiffs herein that it would be unlawful under the POBRA for the OPS officers to have to  
 5 take a polygraph examination.

6 62. The intent of Defendant LA COUNTY and Defendant LA COUNTY  
 7 SHERIFF'S DEPARTMENT was to eliminate the functions of the OPS as a law  
 8 enforcement organization and replace those OPS personnel performing those functions with  
 9 deputy sheriffs. For example, if before the "workforce reduction/ merger", a particular OPS  
 10 officer performed in the law enforcement function of guarding a county medical center  
 11 facility, it was intended by defendants that the function of guarding that same county medical  
 12 center facility would continue after the "workforce reduction/ merger" with the only  
 13 difference being that a deputy sheriff instead of an OPS officer would be performing those  
 14 guard duties. In other words, the OPS sworn peace officer personnel were not losing their  
 15 jobs because their respective positions were being eliminated.

16 63. At all times herein mentioned, Government Code §3307(a) was in full force  
 17 and effect, and read as follows:

18 "No public safety officer shall be compelled to submit  
 19 to a lie detector test against his or her will. No disciplinary  
 20 action or other recrimination shall be taken against a public  
 21 safety officer refusing to submit to a lie detector test, nor  
 22 shall any comment be entered anywhere in the investigator's  
 23 notes or anywhere else that the public safety officer refused  
 24 to take, or did not take, a lie detector test, nor shall any  
 25 testimony or evidence be admissible at a subsequent  
 26 hearing, trial, or proceeding, judicial or administrative  
 27 to the effect that the public safety officer refused to take,  
 28 or was subjected to a lie detector test."



1           64. At all times herein mentioned, Government Code §3307(b) was in full force  
2 and effect, and read as follows:

3                   “For the purpose of this section, ‘lie detector’ means a  
4 polygraph, deceptograph, voice stress analyzer, psychological  
5 stress evaluator, or any other similar device, whether  
6 mechanical or electrical, that is used, or the results of which  
7 are used, for the purpose of rendering a diagnostic opinion  
8 regarding the honesty or dishonesty of an individual.”

9           65. At all times herein mentioned, the law of the State of California provided that  
10 the prohibitions of Government Code §3307(a) and §3307(b), protected existing police  
11 officers, such as plaintiffs herein, and the applicable law did not prevent polygraph  
12 examinations to be administered to new hires. Under these POBRA protections, existing  
13 police officers could only be given a polygraph if they were applying for a specialized  
14 position within their own agency, such as the narcotics division. Under such circumstances,  
15 the questions asked on the polygraph would be limited to questions designed to ferret out the  
16 applicant’s qualifications for the particular assignment in the narcotics division and, if the  
17 existing police officer applicant failed the polygraph, the results would not be placed in his or  
18 her police personnel file and, further, the particular agency could not take any “punitive  
19 action” against that applicant for failing the polygraph examination.

20           66. On or about December 15, 2009, when the so-called “workforce reduction/  
21 merger” was announced and the process of dismantling the OPS was initiated by defendants,  
22 Co-Defendant ED ROGNER of Defendant LA COUNTY SHERIFF’S DEPARTMENT was  
23 placed in charge of the OPS law enforcement unit. In other words, a highly-placed official of  
24 the LA COUNTY SHERIFF’S DEPARTMENT was then the primary supervisor of the  
25 named plaintiffs herein, and he reported directly to Co-Defendant UNDERSHERIFF LEE  
26 WALDIE who, in turn, reported directly to SHERIFF LEE BACA. Defendant LA COUNTY  
27 SHERIFF’S DEPARTMENT remained the primary supervisor of the named plaintiffs herein  
28 until September 30, 2010. Therefore, during this transitional period, the named plaintiffs

1 herein were reporting to a high level management official of Defendant LA COUNTY  
2 SHERIFF'S DEPARTMENT who was responsible to them to ensure that their various rights  
3 and protections under the POBRA were being safeguarded. Nevertheless, all of the  
4 challenged and unlawful polygraph examinations of the named plaintiffs herein were  
5 conducted during the inclusive period of time when Defendant ED ROGNER, a Captain of  
6 the LA COUNTY SHERIFF'S DEPARTMENT was in charge of the OPS law enforcement  
7 agency and when the named plaintiffs herein were still employed as sworn police officers  
8 with the OPS law enforcement organization of Defendant LA COUNTY.

9 67. Existing deputy sheriffs and management law enforcement personnel employed  
10 with Defendant LA COUNTY SHERIFF'S DEPARTMENT were not required to take  
11 polygraph examinations between December 15, 2009 and September 30, 2010 as a condition  
12 of keeping their sworn police officer positions; instead, only the sworn police officers with  
13 the OPS, like the named plaintiffs herein, were required to take the polygraph examinations  
14 in order to retain their law enforcement jobs with Defendant LA COUNTY. Indeed, if  
15 Defendant LA COUNTY had required existing deputy sheriffs and/or management personnel  
16 of Defendant LA COUNTY SHERIFF'S DEPARTMENT to take polygraph examinations in  
17 order to retain their sworn peace officer positions, Defendant LA COUNTY would have  
18 violated the POBRA as to each such polygraph examination required of the law enforcement  
19 counterparts of the named plaintiffs herein. If this were a true "workforce reduction/  
20 merger" between the sworn peace officers of both the OPS and the LA COUNTY DEPUTY  
21 SHERIFF'S DEPARTMENT, and if Defendant LA COUNTY did not have an unlawful  
22 motivation in undertaking the subject adverse actions, one would expect either that unlawful  
23 polygraph examinations would not have been required of any LA COUNTY peace officer or,  
24 if these examinations were required, peace officers from both the OPS and the Sheriff's  
25 Department would equally be at risk in taking the examinations.

26 68. Based on the foregoing paragraphs in this cause of action, Defendants LA  
27 COUNTY and LA COUNTY SHERIFF'S DEPARTMENT violated the rights and  
28 protections of the POBRA as to each named plaintiff herein (i.e. as set forth in Government



1 Code §§3307(a) and 3307(b).

2 69. Many of the named plaintiffs herein were required to take more than one  
3 polygraph examination between December 15, 2009 and September 30, 2010. The named  
4 plaintiffs herein contend that each taking of the polygraph examination was a separate and  
5 distinct violation of their respective POBRA rights and entitles them to the damages and  
6 remedies provided under the POBRA for each taking of the polygraph examination.

7 70. Each plaintiff herein was required to take at least one polygraph examination in  
8 order to retain his or her position as a sworn POST-certified police officer.

9 71. At all times herein mentioned, Government Code §3309.5(e) was in full force  
10 and effect. This statute provided, in pertinent part, as follows:

11 "In addition to the extraordinary relief afforded by  
12 this chapter, upon a finding by a superior court that  
13 a public safety officer department, its employees,  
14 agents, or assigns, with respect to acts taken within  
15 the scope of employment, maliciously violated any  
16 provision of this chapter with the intent to injure the  
17 public safety officer, the public safety department  
18 shall, for each and every violation, be liable for a civil  
19 penalty not to exceed \$25,000 to be awarded to the  
20 public safety officer whose right or protection was  
21 denied and for reasonable attorney's fees as may be  
22 determined by the court. If the court so finds, and  
23 there is sufficient evidence to establish actual damages  
24 by the officer whose right or protection was denied,  
25 the public safety department shall also be liable for  
26 the amount of actual damages...."

27 72. At all times herein mentioned, Government Code §3309.5(d)(1) was in full  
28 force and effect. This statute provided, in pertinent part, as follows:

1 "In any case where the superior court finds that a public  
2 safety department has violated any of the provisions of this  
3 chapter, the court shall render appropriate injunctive or other  
4 extraordinary relief to remedy the violation and to prevent  
5 future violations of a like or similar nature, including, but  
6 not limited to, the granting of a temporary restraining order,  
7 preliminary injunction, or permanent injunction from taking  
8 any punitive action against the public safety officer."

9 73. Most of the named plaintiffs in this particular Complaint "failed" the polygraph  
10 examination(s) and/or background investigations; consequently, they were either placed in  
11 civilian jobs with Defendant LA COUNTY or they were terminated from the employment of  
12 Defendant LA COUNTY or they were forced to retire if they were eligible to do so.

13 74. Most of the named plaintiffs in this particular Complaint were verbally,  
14 mentally, and emotionally abused by either their polygraphers or their background  
15 investigator (deputy sheriff from the Sheriff's Department), or by both. Thus, for example,  
16 one of the named plaintiffs in the age-protected lawsuit, who had been a police officer for  
17 about 30 years, was instructed by her particular background investigator to report to a  
18 particular room for an interview; and, when, she reported to that particular room as  
19 instructed, it was a broom closet. Several background investigators witnessed this plaintiff  
20 opening the door to the broom closet and had a hearty laugh at her expense.

21 75. Each plaintiff named herein contends that the conduct of the named defendants  
22 in this cause of action, in subjecting them to polygraph examinations under the circumstances  
23 as stated in this Complaint, was a malicious action designed to injure them specifically.

24 76. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to a  
25 civil penalty of up to \$25,000 for each time they were required to take a polygraph  
26 examination.

27 77. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to  
28 his or her actual damages, including, but not limited to, compensatory (economic) damages

1 such as loss of income and lost future earning capacity, and general (non-economic) damages  
 2 such as monetary recovery for physical, mental, and emotional damages. These damages are  
 3 in an amount according to proof at the trial of this action.

4 78. Pursuant to Government Code §3309.5(c), each plaintiff herein, or his or her  
 5 counsel, is entitled to his or her reasonable attorney's fees and costs in an amount according  
 6 to proof at the trial of this action.

7 79. On information and belief, each plaintiff named herein alleges information  
 8 pertaining to the polygraph examinations have been included into his or her police personnel  
 9 file or other file kept for personnel purposes. The information obtained about each plaintiff  
 10 named herein as a result of the polygraph examination(s) to which he or she was unlawfully  
 11 subjected should be purged from his or her police personnel file or other file kept for  
 12 personnel purposes. Each plaintiff named herein therefore prays for extraordinary relief  
 13 directed to the custodian of the file(s) to purge the file of all information and data, positive or  
 14 negative, that was derived from the unlawful polygraph examination(s). This relief is  
 15 requested pursuant to the provisions of Government Code §3309.5(d)(1) as set forth above.

16 80. The provisions of the POBRA are, pursuant to Government Code §3300 and  
 17 §3301, intended for a public benefit. The attorneys for each named plaintiff herein therefore  
 18 request an award of attorney fees and costs pursuant to the private attorney general doctrine  
 19 provisions of Code of Civil Procedure §1021.5.

#### 20 21 **FOURTH CAUSE OF ACTION**

22 **(VIOLATIONS OF THE PUBLIC SAFETY OFFICERS PROCEDURAL**  
 23 **BILL OF RIGHTS- VIOLATION OF GOVERNMENT CODE §3305- BY**  
 24 **THE PLAINTIFFS NAMED BELOW AGAINST DEFENDANTS COUNTY OF**  
 25 **LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT,**  
 26 **AND DOES 1 THROUGH 100)**

27 81. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
 28 1 through 80 as though fully set forth.

1           82. At all times herein mentioned, Government Code §3305 was in full force and  
2 effect. This statute was part of the POBRA and provided as follows:

3                   “No public safety officer shall have any comment adverse  
4 to his interest entered into his personnel file, or any other  
5 file used for any personnel purposes by his employer.  
6 without the public safety officer having first read and  
7 signed the instrument containing the adverse comment  
8 indicating he is aware of such comment, except that such  
9 entry may be made if after reading such instrument the  
10 public safety officer refuses to sign it. Should a public  
11 safety officer refuse to sign, that fact shall be noted on that  
12 document, and signed or initialed by such officer.”

13           83. Not all of the plaintiffs named in this Complaint contend they “failed” the  
14 polygraph examination(s) and/or background investigations, or that they were disqualified  
15 for a medical and/or psychological reason. Indeed, some of the plaintiffs named in this  
16 Complaint were allowed to “laterally transfer” into deputy sheriff positions in Defendant  
17 LASD, but were placed on a probationary status as deputy sheriffs. On information and  
18 belief, those plaintiffs who were not permitted to “laterally transfer” into deputy sheriff  
19 positions with Defendant LASD, all had adverse comments placed into their personnel file  
20 without the particular named plaintiff be able first read and sign the documents containing  
21 the adverse comments.

22           84. The named plaintiffs who have been “disqualified” for some reason are  
23 maintaining this cause of action, and are identified as follows: MICHAEL GAMST,  
24 CHRISTIE ACOSTA, PAUL ARROYO, FABIAN BARRAZA, YOLANDA CABADA,  
25 DARREN COOPER, DANIEL CORTEZ, JR., RONALD CROMWELL, DAVID CUEVAS,  
26 ALLEN DAVIS, BASET FATAH, ROBERT GALLEGOS, CHRISTOPHER GERAKIOS,  
27 JESUS GUERRERO, VICTOR GUTIERREZ, ANTHONY HERNANDEZ, DAVID JUST,  
28 LLOYD NELSON, JR., BINH NGUYEN, ERIC PEÑA, STEVEN PRIETO, VICTOR

1 RAMIREZ, DARREN ROBINSON, JUSTIN RUSSELL, JAE SEUNG, WAI HENG  
 2 SOOHOO, EUGENIO STEWART, ARTURO VALENCIA, ROBERT VIEIRA, RYAN  
 3 WELLS, EMMETT WILKS, JR., ROGER YU, ANDREW ZAMORA, JOSE ZAMORA.

4 85. Also named as plaintiffs in this action is Plaintiff KEVIN ADAMS, who is  
 5 now a probationary deputy sheriff after his appeal from medical disqualification was granted.

6 86. Each plaintiff named herein is informed and believes that he was initially or  
 7 forever disqualified from laterally transferring into a deputy sheriff position with Defendant  
 8 LA COUNTY SHERIFF'S DEPARTMENT because he or she either "failed" the polygraph  
 9 and/or background investigation, or because he or she "failed" the pre-employment physical  
 10 and/or psychological examination, or because he or she allegedly made an inaccurate  
 11 statement on his or her medical questionnaire. In any of those cases, each plaintiff named  
 12 herein is informed and believe, and thereon alleges, that comments adverse to his or her  
 13 interest were entered into his or her police personnel file or other file kept for personnel  
 14 purposes, without each named plaintiff having first read and signed the instrument containing  
 15 the adverse comment or comments.

16 87. Each plaintiff named herein further alleges that Defendants LA COUNTY and  
 17 LA COUNTY SHERIFF'S DEPARTMENT failed and/or refused to allow him or her to  
 18 review and then "sign off" on the adverse comments being entered into his or her police  
 19 personnel file or other file kept for personnel purposes. This failure and/or refusal to allow  
 20 each plaintiff named herein to review and then "sign off" on the adverse comments before  
 21 these comments were placed in his or her police personnel file or other file kept for personnel  
 22 purposes was unlawful and in violation of Government Code §3305.

23 88. At all times herein mentioned, Government Code §3309.5(e) was in full force  
 24 and effect. This statute provided, in pertinent part, as follows:

25 "In addition to the extraordinary relief afforded by  
 26 this chapter, upon a finding by a superior court that  
 27 a public safety officer department, its employees,  
 28 agents, or assigns, with respect to acts taken within

1 the scope of employment, maliciously violated any  
 2 provision of this chapter with the intent to injure the  
 3 public safety officer, the public safety department  
 4 shall, for each and every violation, be liable for a civil  
 5 penalty not to exceed \$25,000 to be awarded to the  
 6 public safety officer whose right or protection was  
 7 denied and for reasonable attorney's fees as may be  
 8 determined by the court. If the court so finds, and  
 9 there is sufficient evidence to establish actual damages  
 10 by the officer whose right or protection was denied,  
 11 the public safety department shall also be liable for  
 12 the amount of actual damages...."

13 89. At all times herein mentioned, Government Code §3309.5(d)(1) was in full  
 14 force and effect. This statute provided, in pertinent part, as follows:

15 "In any case where the superior court finds that a public  
 16 safety department has violated any of the provisions of this  
 17 chapter, the court shall render appropriate injunctive or other  
 18 extraordinary relief to remedy the violation and to prevent  
 19 future violations of a like or similar nature, including, but  
 20 not limited to, the granting of a temporary restraining order,  
 21 preliminary injunction, or permanent injunction from taking  
 22 any punitive action against the public safety officer."

23 90. Each plaintiff named herein contends that the conduct of the named defendants  
 24 in this cause of action, in violating the provisions of Government Code §3305, was a  
 25 malicious action designed to injure them specifically.

26 91. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to a  
 27 civil penalty of up to \$25,000 as a result of the defendants' malicious violation of  
 28 Government Code §3305.



92. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to his or her actual damages, including, but not limited to, compensatory (economic) damages such as loss of income and lost future earning capacity, and general (non-economic) damages such as monetary recovery for physical, mental, and emotional damages. These damages are in an amount according to proof at the trial of this action. In the event that each plaintiff named herein were to apply for employment with another law enforcement agency, the adverse comments entered into their respective police personnel files are required by law to be shared with the prospective employing agency. Adverse comments would, in all likelihood, prevent the plaintiff from obtaining a job in law enforcement for life.

93. Pursuant to Government Code §3309.5(e), each plaintiff herein, or his or her counsel, is entitled to his or her reasonable attorney's fees and costs in an amount according to proof at the trial of this action.

94. Each plaintiff named herein therefore prays for extraordinary relief directed to the custodian of the police personnel file(s) of the named plaintiffs herein to purge the file of all adverse comments, information and data that was entered into the file in violation of the provisions of Government Code §3305. This relief is requested pursuant to the provisions of Government Code §3309.5(d)(1) as set forth above.

95. The provisions of the POBRA are, pursuant to Government Code §3300 and §3301, intended for a public benefit. The attorneys for each named plaintiff herein therefore request an award of attorney fees and costs pursuant to the private attorney general doctrine provisions of Code of Civil Procedure §1021.5.

#### **FIFTH CAUSE OF ACTION**

**(VIOLATIONS OF THE PUBLIC SAFETY OFFICERS PROCEDURAL  
BILL OF RIGHTS- VIOLATION OF GOVERNMENT CODE §3308- BY ALL  
PLAINTIFFS AGAINST DEFENDANTS COUNTY OF LOS ANGELES,  
COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, AND DOES 1  
THROUGH 100)**

1           96. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
2 1 through 95 as though fully set forth.

3           97. At all times herein mentioned, Government Code §3308 of the POBRA was in  
4 full force and effect. This statute provided as follows:

5                   “No public safety officer shall be required or requested for  
6 purposes of job assignment or other personnel action to disclose  
7 any item of his property, income, assets, source of income,  
8 debts or personal or domestic expenditures (including those of  
9 any member of his family or household) unless such information  
10 is obtained or required under state law or proper legal procedure,  
11 tends to indicate a conflict of interest with respect to the  
12 performance of his official duties, or is necessary for the employing  
13 agency to ascertain the desirability of assigning the public safety  
14 officer to a specialized unit in which there is a strong possibility  
15 that bribes or other improper inducements may be offered.”

16           98. Each plaintiff named herein was questioned about, and was required to disclose  
17 information regarding, his or her “property, income, assets, source of income, debts or  
18 personal or domestic expenditures (including those of any member of his family or  
19 household)” during the polygraph examinations and background investigations. In fact,  
20 some of the named plaintiffs herein were informed that they “failed” the polygraph  
21 examinations and/or background investigations, and were precluded from being “laterally  
22 transferred” into deputy sheriff positions on the basis of alleged “financial irresponsibility”.

23           99. Regardless of whether a particular plaintiff was disqualified because of his or  
24 her “financial irresponsibility”, the requirement that each plaintiff named herein respond to  
25 questions about his or her “property, income, assets, source of income, debts or personal or  
26 domestic expenditures (including those of any member of his family or household)” during  
27 the polygraph examinations and background investigations violated the provisions of the  
28 POBRA at Government Code §3308, and caused each plaintiff named herein damages under



1 the provisions of the statutory schemes.

2 100. Each named plaintiff herein was not a "new hire" and was an existing police  
3 officer who had rights under the POBRA. Moreover, similarly situated deputy sheriffs from  
4 Defendant LA COUNTY SHERIFF'S DEPARTMENT were not required to submit to  
5 polygraph examinations and/or background investigations in which questions about their  
6 financial condition were required to be answered, and where objectionable responses caused  
7 them to lose their jobs as sworn police officers.

8 101. At all times herein mentioned, Government Code §3309.5(e) was in full force  
9 and effect. This statute provided, in pertinent part, as follows:

10 "In addition to the extraordinary relief afforded by  
11 this chapter, upon a finding by a superior court that  
12 a public safety officer department, its employees,  
13 agents, or assigns, with respect to acts taken within  
14 the scope of employment, maliciously violated any  
15 provision of this chapter with the intent to injure the  
16 public safety officer, the public safety department  
17 shall, for each and every violation, be liable for a civil  
18 penalty not to exceed \$25,000 to be awarded to the  
19 public safety officer whose right or protection was  
20 denied and for reasonable attorney's fees as may be  
21 determined by the court. If the court so finds, and  
22 there is sufficient evidence to establish actual damages  
23 by the officer whose right or protection was denied,  
24 the public safety department shall also be liable for  
25 the amount of actual damages...."

26 102. At all times herein mentioned, Government Code §3309.5(d)(1) was in full  
27 force and effect. This statute provided, in pertinent part, as follows:

28 "In any case where the superior court finds that a public

1 safety department has violated any of the provisions of this  
2 chapter, the court shall render appropriate injunctive or other  
3 extraordinary relief to remedy the violation and to prevent  
4 future violations of a like or similar nature, including, but  
5 not limited to, the granting of a temporary restraining order,  
6 preliminary injunction, or permanent injunction from taking  
7 any punitive action against the public safety officer.”

8 103. Each plaintiff named herein contends that the conduct of the named defendants  
9 in this cause of action, in violating the provisions of Government Code §3308, was a  
10 malicious action designed to injure them specifically.

11 104. Further, each plaintiff named herein is concerned that his or her police  
12 personnel file or other file kept for personnel purposes contains information about his or her  
13 financial situation and/or condition which was obtained unlawfully according to the express  
14 provisions of Government Code §3308. To the extent necessary, each plaintiff named herein  
15 prays for extraordinary relief from the court to purge his or her personnel file of any  
16 information whatsoever (positive or negative) about his or her financial condition and/or  
17 situation. This relief is requested pursuant to the provisions of Government Code  
18 §3309.5(d)(1) as set forth above.

19 105. Pursuant to Government Code §3309.5(c), each plaintiff herein is entitled to a  
20 civil penalty of up to \$25,000 as a result of the defendants' malicious violation of  
21 Government Code §3308, in that the defendants violated the POBRA by requiring each  
22 named plaintiff herein to respond to questions about his or her financial condition and/or  
23 situation at the polygraph examinations and at the background investigations.

24 106. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to  
25 his or her actual damages, including, but not limited to, compensatory (economic) damages  
26 such as loss of income and lost future earning capacity, and general (non-economic) damages  
27 such as monetary recovery for physical, mental, and emotional damages. These damages are  
28 in an amount according to proof at the trial of this action. In the event that each plaintiff

1 named herein were to apply for employment with another law enforcement agency, the  
 2 adverse comments entered into their respective police personnel files are required by law to  
 3 be shared with the prospective employing agency. Adverse comments would, in all  
 4 likelihood, prevent the plaintiff from obtaining a job in law enforcement for life.

5 107. Pursuant to Government Code §3309.5(e), each plaintiff herein, or his or her  
 6 counsel, is entitled to his or her reasonable attorney's fees and costs in an amount according  
 7 to proof at the trial of this action.

8 108. The provisions of the POBRA are, pursuant to Government Code §3300 and  
 9 §3301, intended for a public benefit. The attorneys for each named plaintiff herein therefore  
 10 request an award of attorney fees and costs pursuant to the private attorney general doctrine  
 11 provisions of Code of Civil Procedure §1021.5.

#### 12 SIXTH CAUSE OF ACTION

13  
 14 **(VIOLATIONS OF THE PUBLIC SAFETY OFFICERS PROCEDURAL**  
 15 **BILL OF RIGHTS- BLANKET WAIVERS OF RIGHT TO VIEW POLICE**  
 16 **PERSONNEL FILE AS PERMITTED UNDER GOVERNMENT CODE §**  
 17 **3306.5(a-d) ARE UNLAWFUL- BY ALL PLAINTIFFS AGAINST**  
 18 **DEFENDANTS COUNTY OF LOS ANGELES, COUNTY OF LOS**  
 19 **ANGELES POLICE DEPARTMENT, AND DOES 1 THROUGH 100)**

20 109. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
 21 1 through 108 as though fully set forth.

22 110. At all times herein mentioned, Government Code §3306.5(a-d) was in full  
 23 force and effect. This statute provided as follows:

24 “(a) Every employer shall, at reasonable times and at  
 25 reasonable intervals, upon the request of a public safety officer,  
 26 during usual business hours, with no loss of compensation to the  
 27 officer, permit that officer to inspect personnel files that are used  
 28 or have been used to determine that officer's qualifications for

1 employment, promotion, additional compensation, or termination or  
2 other disciplinary action.

3 (b) Each employer shall keep each public safety officer's  
4 personnel file or a true and correct copy thereof, and shall make  
5 the file or copy thereof available within a reasonable period of time  
6 after a request therefor by the officer.

7 (c) If, after examination of the officer's personnel file, the  
8 officer believes that any portion of the material is mistakenly or  
9 unlawfully placed in the file, the officer may request, in writing,  
10 that the mistaken or unlawful portion be corrected or deleted. Any  
11 request made pursuant to this subdivision shall include a statement  
12 by the officer describing the corrections or deletions from the  
13 personnel file requested and the reasons supporting those corrections  
14 or deletions. A statement submitted pursuant to this subdivision  
15 shall become part of the personnel file of the officer.

16 (d) Within 30 calendar days of receipt of a request made pursuant  
17 to subdivision (c), the employer shall either grant the officer's  
18 request or notify the officer of the decision to refuse to grant the  
19 request. If the employer refuses to grant the request, in whole or in  
20 part, the employer shall state in writing the reasons for refusing  
21 the request, and that written statement shall become part of the  
22 personnel file of the officer."

23 111. On information and belief, each plaintiff named herein was required by  
24 Defendants LA COUNTY and LA SHERIFF'S DEPARTMENT to waive in writing his or  
25 her right under Government Code §3306.5 and its subdivisions to inspect and/or comment on  
26 the information placed into his or her police personnel file before he or she was permitted to  
27 take the polygraph examination and to participate in the background investigation.

28 112. Moreover, any "waiver" signed by each named plaintiff herein was invalid

1 because it was not "voluntary" in the true sense of the word. The penalty for not agreeing to  
2 sign the "waiver" was that he or she would lose his or her job as an existing police officer  
3 and, further, would not be eligible to attempt to mitigate his or her damages by finding and  
4 obtaining "civilian" employment within Defendant LA COUNTY.

5 113. On information and belief, each named plaintiff herein alleges that a blanket  
6 waiver of the provisions of Government Code §3306.5 and its subdivisions has been declared  
7 unlawful by the California Supreme Court in its decision in *County of Riverside v. Superior*  
8 *Court (Madrigal)* (2002) 27 Cal.4th 743.

9 114. Because each named plaintiff was required to waive in writing his or her right  
10 under Government Code §3306.5 and its subdivisions to inspect and/or comment on the  
11 information placed into his or her police personnel file before he or she was permitted to take  
12 the polygraph examination and to participate in the background investigation, each named  
13 plaintiff herein was denied the rights of that POBRA statute and is entitled to the remedies  
14 provided in this statutory scheme.

15 115. At all times herein mentioned, Government Code §3309.5(e) was in full force  
16 and effect. This statute provided, in pertinent part, as follows:

17 "In addition to the extraordinary relief afforded by  
18 this chapter, upon a finding by a superior court that  
19 a public safety officer department, its employees,  
20 agents, or assigns, with respect to acts taken within  
21 the scope of employment, maliciously violated any  
22 provision of this chapter with the intent to injure the  
23 public safety officer, the public safety department  
24 shall, for each and every violation, be liable for a civil  
25 penalty not to exceed \$25,000 to be awarded to the  
26 public safety officer whose right or protection was  
27 denied and for reasonable attorney's fees as may be  
28 determined by the court. If the court so finds, and

1           there is sufficient evidence to establish actual damages  
 2           by the officer whose right or protection was denied,  
 3           the public safety department shall also be liable for  
 4           the amount of actual damages....”

5           116. At all times herein mentioned, Government Code §3309.5(d)(1) was in full  
 6 force and effect. This statute provided, in pertinent part, as follows:

7           “In any case where the superior court finds that a public  
 8           safety department has violated any of the provisions of this  
 9           chapter, the court shall render appropriate injunctive or other  
 10          extraordinary relief to remedy the violation and to prevent  
 11          future violations of a like or similar nature, including, but  
 12          not limited to, the granting of a temporary restraining order,  
 13          preliminary injunction, or permanent injunction from taking  
 14          any punitive action against the public safety officer.”

15          117. Each plaintiff named herein contends that the conduct of the named defendants  
 16 in this cause of action, in violating the provisions of Government Code §3306.5(a-d), was a  
 17 malicious action designed to injure them specifically.

18          118. Further, each plaintiff named herein is concerned that his or her police  
 19 personnel file or other file kept for personnel purposes contains information about his or her  
 20 polygraph examinations results, background investigation results, and medical and/or  
 21 psychological exam results, which was obtained unlawfully according to other express  
 22 provisions of the POBRA set forth in this Complaint. To the extent necessary, each plaintiff  
 23 named herein prays for extraordinary relief from the court to purge his or her personnel file  
 24 of any information whatsoever (positive or negative) about any negative information in the  
 25 respective personnel files. This relief is requested pursuant to the provisions of Government  
 26 Code §3309.5(d)(1) as set forth above.

27          119. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to a  
 28 civil penalty of up to \$25,000 as a result of the defendants’ malicious violation of



1 Government Code §3308, in that the defendants violated the POBRA by requiring each  
 2 named plaintiff herein to respond to questions about personal information at the polygraph  
 3 examinations and at the background investigations, and also at the medical and psychological  
 4 examinations.

5 120. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to  
 6 his or her actual damages, including, but not limited to, compensatory (economic) damages  
 7 such as loss of income and lost future earning capacity, and general (non-economic) damages  
 8 such as monetary recovery for physical, mental, and emotional damages. These damages are  
 9 in an amount according to proof at the trial of this action. In the event that each plaintiff  
 10 named herein were to apply for employment with another law enforcement agency, the  
 11 adverse comments entered into their respective police personnel files are required by law to  
 12 be shared with the prospective employing agency. Adverse comments would, in all  
 13 likelihood, prevent the plaintiff from obtaining a job in law enforcement for life.

14 121. Pursuant to Government Code §3309.5(e), each plaintiff herein, or his or her  
 15 counsel, is entitled to his or her reasonable attorney's fees and costs in an amount according  
 16 to proof at the trial of this action.

17 122. The provisions of the POBRA are, pursuant to Government Code §3300 and  
 18 §3301, intended for a public benefit. The attorneys for each named plaintiff herein therefore  
 19 request an award of attorney fees and costs pursuant to the private attorney general doctrine  
 20 provisions of Code of Civil Procedure §1021.5.

## 21 SEVENTH CAUSE OF ACTION

22 (VIOLATIONS OF THE PUBLIC SAFETY OFFICERS PROCEDURAL  
 23 BILL OF RIGHTS- VIOLATION OF GOVERNMENT CODE §3304(b)-  
 24 BY ALL PLAINTIFFS AGAINST DEFENDANTS LOS ANGELES COUNTY,  
 25 LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, AND DOES 1  
 26 THROUGH 100, INCLUSIVE)  
 27

28 123. Plaintiffs realleges and incorporate herein those matters contained in

1 paragraphs 1 through 122 as though fully set forth.

2 124. At all times herein mentioned, Government Code §3304(b) was in full force  
3 and effect. This statute provided as follows:

4 "No punitive action, nor denial of promotion on grounds  
5 other than merit, shall be undertaken by any public agency  
6 against any public safety officer who has successfully  
7 completed the probationary period that may be required by  
8 his or her employing agency without providing the public  
9 safety officer with an opportunity for administrative appeal."

10 125. On information and belief, the term "punitive action", as used in the POBRA  
11 statutory scheme, includes a termination or demotion or suspension from a law enforcement  
12 agency, or a loss of rank, pay or grade within the law enforcement agency.

13 126. All named plaintiffs herein were subjected to a "punitive action" under the  
14 POBRA statutory scheme. There are several categories of plaintiffs who did not receive their  
15 administrative appeal rights under the POBRA. The following is noteworthy in this regard:

16 A) Most of the plaintiffs named in this Complaint were terminated from  
17 their POST-certified law enforcement positions with the OPS, either because they "failed"  
18 the initial polygraph examination and/or background investigation or because they were  
19 excluded for a medical or psychological reason from becoming a deputy sheriff. In fact, for  
20 some of the plaintiffs who "failed" their polygraph examination(s) or background  
21 investigation, they were placed on a paid leave until September 30, 2010 and were told they  
22 were under "house arrest". None of these disqualified plaintiffs received the required  
23 administrative appeal under the POBRA.

24 B) Several of the plaintiffs named herein were also subjected to a "punitive  
25 action" under the POBRA statutory scheme even though they "passed" the initial polygraph  
26 examinations and background investigation, and even though they then "passed" the pre-  
27 employment medical and psychological examinations, thus being permitted to "laterally  
28 transfer" into a deputy sheriff position. As to these few plaintiffs named herein, they lost

1 rank, pay, and/or grade upon being "accepted" into the deputy sheriff position. For example,  
 2 if one of the plaintiffs meeting this criteria had been a sergeant in the OPS for 10 years, he or  
 3 she was not allowed to "laterally transfer" into the rank, pay, and grade of a deputy sheriff  
 4 sergeant position with 10 years of peace officer experience; instead, in this example, the  
 5 former OPS sergeant would be placed in a deputy sheriff II or deputy sheriff IV position,  
 6 earning substantially less than the equivalent pay of a deputy sheriff sergeant with 10 years  
 7 experience on the job in that position. On information and belief, each of these situations  
 8 constituted a "punitive action" as defined under the POBRA.

9 C) At least one of the plaintiffs named herein was terminated because  
 10 there were misconduct allegations pending when he was working for the OPS and he had  
 11 never been accorded his administrative appeal rights under the POBRA.

12 127. Most, if not all of the named plaintiffs herein who were informed they had  
 13 "failed" the initial polygraph examination(s) and/or background investigation were  
 14 disqualified for events or circumstances which occurred more than one year from the date of  
 15 their polygraph examinations(s) and/or background investigation. And, further, these same  
 16 plaintiffs herein had already taken polygraph examinations and had background  
 17 investigations before becoming POST-certified, sworn OPS officers where alleged  
 18 disqualifying events were disclosed. Thus, for example, one of the plaintiffs named in the  
 19 age-protected class lawsuit was a highly placed management law enforcement officer in the  
 20 OPS, and was disqualified because he allegedly smoked marijuana at some time before  
 21 becoming a police officer. This same plaintiff, however, had been a police officer for over  
 22 20 years, he was POST-certified, and the information that he had smoked marijuana in the  
 23 past had been disclosed during his prior polygraph examination and background investigation  
 24 as a pre-condition of becoming an OPS sworn police officer. Under the circumstances, that  
 25 particular disqualification violated the POBRA provision in Government Code §3304(d)(1)  
 26 to the effect "no punitive action....shall be undertaken for any act, omission, or other  
 27 allegation of misconduct if the investigation or allegation is not completed within one year of  
 28 the public agency's discovery....of the allegation of an act, omission, or other misconduct."

1           128. Most, if not all, of the plaintiffs named herein appealed the grounds of their  
2 termination, either by unsuccessfully appealing to the Department of Human Resources of  
3 Defendant LA COUNTY or unsuccessfully asking the Civil Service Commission for a  
4 hearing. Defendant LA COUNTY took the position that the POBRA did not apply to these  
5 job actions. In fact, the process of directing all appeals of the disqualifications to the  
6 Department of Human Resources of Defendant LA COUNTY and/or to the Civil Service  
7 Commission was in and of itself a violation of the POBRA, since it meant that "civilian"  
8 employees of Defendant LA COUNTY and the public were unlawfully made privy to police  
9 personnel information that should not have been subject to disclosure under Penal Code  
10 §832.7 and the "official information" privileges of the Evidence Code.

11           129. As noted, Government Code §3304(b) required each of the plaintiffs named  
12 herein, regardless of whether or not they ultimately became deputy sheriffs, to be provided  
13 with an "administrative appeal". None of the plaintiffs herein were in fact provided with an  
14 opportunity for an administrative appeal, a "liberty interest" hearing, or an equivalent due  
15 process hearing as required under the POBRA.

16           130. The extraordinary remedy provisions of Government Code §3309.5(d)(1) are  
17 inadequate to redress the injuries and damages incurred by the named plaintiffs herein insofar  
18 as preventing "punitive action" without the opportunity for an administrative appeal, since  
19 the "punitive action" has already been taken against the named plaintiffs herein and the court  
20 has no jurisdiction to order the named defendants herein to receive an administrative appeal  
21 after the damage has been done. Therefore, only monetary damages can adequately address  
22 the injuries sustained by each named plaintiff herein as a result of having a "punitive action"  
23 taken against him or her before having an opportunity for an administrative appeal or  
24 equivalent-type due process hearing. Nevertheless, each plaintiff named herein therefore  
25 prays for extraordinary relief directed to the custodian of the police personnel file(s) of the  
26 named plaintiffs herein to purge the file of all adverse comments, information and data that  
27 was entered into the file as a proximate result of the due process violation of the provisions  
28 of Government Code §3304(b). This relief is requested pursuant to the provisions of

1 Government Code §3309.5(d)(1) as set forth above.

2 131. At all times herein mentioned, Government Code §3309.5(e) was in full force  
3 and effect. This statute provided, in pertinent part, as follows:

4 "In addition to the extraordinary relief afforded by  
5 this chapter, upon a finding by a superior court that  
6 a public safety officer department, its employees,  
7 agents, or assigns, with respect to acts taken within  
8 the scope of employment, maliciously violated any  
9 provision of this chapter with the intent to injure the  
10 public safety officer, the public safety department  
11 shall, for each and every violation, be liable for a civil  
12 penalty not to exceed \$25,000 to be awarded to the  
13 public safety officer whose right or protection was  
14 denied and for reasonable attorney's fees as may be  
15 determined by the court. If the court so finds, and  
16 there is sufficient evidence to establish actual damages  
17 by the officer whose right or protection was denied  
18 the public safety department shall also be liable for  
19 the amount of actual damages...."

20 132. At all times herein mentioned, Government Code §3309.5(d)(1) was in full  
21 force and effect. This statute provided, in pertinent part, as follows:

22 "In any case where the superior court finds that a public  
23 safety department has violated any of the provisions of this  
24 chapter, the court shall render appropriate injunctive or other  
25 extraordinary relief to remedy the violation and to prevent  
26 future violations of a like or similar nature, including, but  
27 not limited to, the granting of a temporary restraining order,  
28 preliminary injunction, or permanent injunction from taking

1                   any punitive action against the public safety officer.”

2           133. Each plaintiff named herein contends that the conduct of the named defendants  
3 in this cause of action, in violating the provisions of Government Code §3304(b), was a  
4 malicious action designed to injure them specifically.

5           134. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to a  
6 civil penalty of up to \$25,000 as a result of the defendants’ malicious violation of  
7 Government Code §3304(b).

8           135. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to  
9 his or her actual damages, including, but not limited to, compensatory (economic) damages  
10 such as loss of income and lost future earning capacity, and general (non-economic) damages  
11 such as monetary recovery for physical, mental, and emotional damages. These damages are  
12 in an amount according to proof at the trial of this action. In the event that each plaintiff  
13 named herein were to apply for employment with another law enforcement agency, the  
14 adverse comments entered into their respective police personnel files are required by law to  
15 be shared with the prospective employing agency. Adverse comments would, in all  
16 likelihood, prevent the plaintiff from obtaining a job in law enforcement for life.

17           136. As to the substantial majority of the named plaintiffs herein who were  
18 informed that they had “failed” their initial polygraph examination(s) and/or background  
19 investigation, their disqualifications (i.e. “punitive actions”) were based on allegations of acts  
20 or misconduct occurring more than one year before the polygraph examination(s) and  
21 background investigation. These same plaintiffs had become sworn POST-certified police  
22 officers after each had taken a prior polygraph examination and had submitted to a prior  
23 background investigation where the allegation of misconduct or omission had been disclosed  
24 and had been waived by Defendant LA COUNTY (i.e. by accepting them into law  
25 enforcement employment as a sworn police office with full knowledge of the alleged act of  
26 misconduct or omission). Consequently, the named defendants herein breached the one-year  
27 statute of limitations on each occasion where a named plaintiff herein was disqualified  
28 because he or she allegedly “failed” the polygraph examination because of an alleged act or



1 omission more than one year before the polygraph examination/ background investigation.  
 2 In each instance, that breach warrants an award of actual damages, a civil penalty of up to  
 3 \$25,000, and reasonable attorney's fees pursuant to POBRA and the private attorney general  
 4 doctrine.

5 137. Pursuant to Government Code §3309.5(e), each plaintiff herein, or his or her  
 6 counsel, is entitled to his or her reasonable attorney's fees and costs in an amount according  
 7 to proof at the trial of this action.

8 138. Additionally, the provisions of the POBRA are, pursuant to Government Code  
 9 §3300 and §3301, intended for a public benefit. The attorneys for each named plaintiff  
 10 herein therefore request an award of attorney fees and costs pursuant to the private attorney  
 11 general doctrine provisions of Code of Civil Procedure §1021.5.

#### 12 **EIGHTH CAUSE OF ACTION**

13  
 14 **(VIOLATIONS OF THE PUBLIC SAFETY OFFICERS PROCEDURAL**  
 15 **BILL OF RIGHTS- VIOLATION OF GOVERNMENT CODE §3304(b)-**  
 16 **UNLAWFULLY REQUIRED BLANKET WAIVERS OF POBRA RIGHTS**  
 17 **TO ACCEPT "VOLUNTARY DEMOTIONS" TO CIVILIAN POSITIONS**  
 18 **WITHIN COUNTY- BY THE PLAINTIFFS NAMED BELOW AGAINST**  
 19 **DEFENDANTS LOS ANGELES COUNTY, LOS ANGELES COUNTY**  
 20 **SHERIFF'S DEPARTMENT, AND DOES 1 THROUGH 100, INCLUSIVE)**

21 139. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
 22 1 through 138 as though fully set forth.

23 140. At all times herein mentioned, Government Code §3304(b) was in full force  
 24 and effect. This statute provided as follows:

25 "No punitive action, nor denial of promotion on grounds  
 26 other than merit, shall be undertaken by any public agency  
 27 against any public safety officer who has successfully  
 28 completed the probationary period that may be required by

1 his or her employing agency without providing the public  
2 safety officer with an opportunity for administrative appeal.”

3 141. On information and belief, the term “punitive action”, as used in the POBRA  
4 statutory scheme, includes a termination from a sworn police officer position or a demotion  
5 to another position within Defendant LA COUNTY.

6 142. In an attempt to demonstrate that it was a benevolent employer, Defendant LA  
7 COUNTY selectively “attempted” to find “civilian” jobs within the County to replace the  
8 sworn police officer jobs that many of the plaintiffs named herein were losing.

9 143. One of these “civilian” positions was a Custody Assistant position. In LA  
10 COUNTY, a Custody Assistant fulfills the same function as a deputy sheriff in the County  
11 Jail network. Both Custody Assistants and deputy sheriffs wear a badge and a uniform,  
12 however, the deputy sheriff is a sworn police officer position under Penal Code §830.1 and a  
13 Custody Assistant is not. Custody Assistants cannot carry concealed weapons and cannot  
14 make arrests, whereas deputy sheriffs can be armed and do make arrests. Custody Assistants  
15 also earn substantially less money and enjoy considerably less benefits than a deputy sheriff.

16 144. Another of these “civilian” positions is a Sheriff’s security assistant. Security  
17 assistants earn considerably less than even Custody Assistants and, also, are not armed and  
18 do not make arrests. They are not sworn police officers.

19 145. Many of the named plaintiffs herein who had been informed they had “failed”  
20 the polygraph examination, and/or the background investigation, and/or the medical  
21 examination, and/or the psychological examination, were offered “civilian” positions as a  
22 Custody Assistant, a Sheriff’s security assistant, or some other clerical job with LA  
23 COUNTY. Many of the named plaintiffs herein, recognizing that their law enforcement  
24 careers had been forever destroyed by the named defendants herein, did what they had to do  
25 to support their families and “accepted” these civilian positions. The alternative was  
26 becoming homeless or going on welfare or futilely attempting to seek police officer jobs with  
27 other law enforcement agencies with a tainted record.

28 146. The named plaintiffs in this cause of action are as follows: MICHAEL

1 GAMST, CHRISTIE ACOSTA, PAUL ARROYO, FABIAN BARRAZA, YOLANDA  
 2 CABADA, DARREN COOPER, DANIEL CORTEZ, JR., RONALD CROMWELL,  
 3 DAVID CUEVAS, ALLEN DAVIS, BASET FATAH, ROBERT GALLEGOS,  
 4 CHRISTOPHER GERAKIOS, JESUS GUERRERO, VICTOR GUTIERREZ, ANTHONY  
 5 HERNANDEZ, DAVID JUST, LLOYD NELSON, JR., BINH NGUYEN, ERIC PENA,  
 6 STEVEN PRIETO, VICTOR RAMIREZ, DARREN ROBINSON, JUSTIN RUSSELL, JAE  
 7 SEUNG, WAI HENG SOOHOO, EUGENIO STEWART, ARTURO VALENCIA,  
 8 ROBERT VIEIRA, RYAN WELLS, EMMETT WILKS, JR., ROGER YU, ANDREW  
 9 ZAMORA, JOSE ZAMORA

10 147. On information and belief, Defendant LA COUNTY required each of the  
 11 named plaintiffs in this cause of action to sign a waiver document agreeing to accept a  
 12 "voluntary demotion". Some of the named plaintiffs herein registered an objection to signing  
 13 the document and were informed they would lose their job if they did not sign it. The waiver  
 14 documents which they were required to sign were by no means "voluntary".

15 148. On information and belief, the named plaintiffs herein contend that, given the  
 16 position of Defendant LA COUNTY to the effect the "civilian" jobs in fact represented a  
 17 demotion, this demotion following closely on the heels of their disqualification from a sworn  
 18 police officer position was another violation of the POBRA. As noted in this cause of action  
 19 and elsewhere in this Complaint, Government Code §3304.5(b) provides that a "punitive  
 20 action" (which includes a demotion) cannot be taken against a police officer without the  
 21 officer being afforded an opportunity for an administrative appeal or equivalent-type due  
 22 process hearing. Each plaintiff named herein was not provided with the required opportunity  
 23 for an administrative appeal or equivalent-type due process hearing before the "punitive  
 24 action" of a demotion was taken and before they were required to sign a waiver form  
 25 indicating that their acceptance of a "civilian" position in LA County was a "voluntary  
 26 demotion".

27 149. Further, at all times herein mentioned, requiring the named plaintiffs herein to  
 28 sign a "voluntary demotion" waiver in order to be employed in civilian positions in LA

1 COUNTY was in effect a blanket waiver of their respective rights under the POBRA and  
 2 was unlawful pursuant to *County of Riverside v. Superior Court (Madrigal)* (2002) 27  
 3 Cal.4th 743.

4 150. Because each named plaintiff was required to waive in writing his or her right  
 5 under Government Code §3304.5(b) to have an administrative appeal or equivalent-type due  
 6 process hearing before being required to take a "civilian" job where he or she had to sign a  
 7 blanket "voluntary demotion" waiver, each named plaintiff herein was denied the rights of  
 8 that POBRA statute and is entitled to the remedies provided in this statutory scheme.

9 151. At all times herein mentioned, Government Code §3309.5(e) was in full force  
 10 and effect. This statute provided, in pertinent part, as follows:

11 "In addition to the extraordinary relief afforded by  
 12 this chapter, upon a finding by a superior court that  
 13 a public safety officer department, its employees,  
 14 agents, or assigns, with respect to acts taken within  
 15 the scope of employment, maliciously violated any  
 16 provision of this chapter with the intent to injure the  
 17 public safety officer, the public safety department  
 18 shall, for each and every violation, be liable for a civil  
 19 penalty not to exceed \$25,000 to be awarded to the  
 20 public safety officer whose right or protection was  
 21 denied and for reasonable attorney's fees as may be  
 22 determined by the court. If the court so finds, and  
 23 there is sufficient evidence to establish actual damages  
 24 by the officer whose right or protection was denied,  
 25 the public safety department shall also be liable for  
 26 the amount of actual damages...."

27 152. At all times herein mentioned, Government Code §3309.5(d)(1) was in full  
 28 force and effect. This statute provided, in pertinent part, as follows:

1 "In any case where the superior court finds that a public  
2 safety department has violated any of the provisions of this  
3 chapter, the court shall render appropriate injunctive or other  
4 extraordinary relief to remedy the violation and to prevent  
5 future violations of a like or similar nature, including, but  
6 not limited to, the granting of a temporary restraining order,  
7 preliminary injunction, or permanent injunction from taking  
8 any punitive action against the public safety officer."

9 153. Each plaintiff named herein contends that the conduct of the named defendants  
10 in this cause of action, in violating the provisions of Government Code §3304(b) was a  
11 malicious action designed to injure them specifically.

12 154. Further, each plaintiff named herein requests extraordinary relief to the extent  
13 that the court mandates that the so-called "voluntary demotions" are unlawful and would  
14 prevent Defendant LA COUNTY from taking any action to enforce and/or rely on those  
15 waivers in the future. This relief is requested pursuant to the provisions of Government Code  
16 §3309.5(d)(1) as set forth above.

17 155. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to a  
18 civil penalty of up to \$25,000 as a result of the defendants' malicious violation of  
19 Government Code §3304(b).

20 156. Pursuant to Government Code §3309.5(e), each plaintiff herein is entitled to  
21 his or her actual damages, including, but not limited to, compensatory (economic) damages  
22 such as loss of income and lost future earning capacity, and general (non-economic) damages  
23 such as monetary recovery for physical, mental, and emotional damages. These damages are  
24 in an amount according to proof at the trial of this action. Because of the violation of this  
25 section of the POBRA, in combination with the violation of other sections of the POBRA as  
26 set forth elsewhere in this Complaint, it is unlikely that the plaintiffs named herein who are  
27 not currently working as deputy sheriffs will be able to find law enforcement jobs with any  
28 other agency.

1 157. Pursuant to Government Code §3309.5(e), each plaintiff herein, or his or her  
 2 counsel, is entitled to his or her reasonable attorney's fees and costs in an amount according  
 3 to proof at the trial of this action.

4 158. The provisions of the POBRA are, pursuant to Government Code §3300 and  
 5 §3301, intended for a public benefit. The attorneys for each named plaintiff herein therefore  
 6 request an award of attorney fees and costs pursuant to the private attorney general doctrine  
 7 provisions of Code of Civil Procedure §1021.5.

#### 8 9 NINTH CAUSE OF ACTION

10 (VIOLATIONS OF FEDERAL CIVIL RIGHTS- ACTION UNDER 42 U.S.C.  
 11 §§1983, ET SEQ.,- BY THE PLAINTIFFS NAMED BELOW AGAINST THE  
 12 INDIVIDUAL DEFENDANTS NAMED BELOW AND AGAINST DOES 1  
 13 THROUGH 100 FOR THE UNLAWFUL TAKING OF A PROPERTY  
 14 INTEREST WITHOUT DUE PROCESS OF LAW PURSUANT TO THE  
 15 FIFTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES  
 16 CONSTITUTION)

17 159. Plaintiffs realleges and incorporate herein those matters contained in  
 18 paragraphs 1 through 158 as though fully set forth.

19 160. This particular cause of action for violation of civil rights under 42 U.S.C.  
 20 §1983, et seq. applies to the following named plaintiffs: MICHAEL GAMST, CHRISTIE  
 21 ACOSTA, PAUL ARROYO, FABIAN BARRAZA, YOLANDA CABADA, DARREN  
 22 COOPER, DANIEL CORTEZ, JR., RONALD CROMWELL, DAVID CUEVAS, ALLEN  
 23 DAVIS, BASET FATAH, ROBERT GALLEGOS, CHRISTOPHER GERAKIOS, JESUS  
 24 GUERRERO, VICTOR GUTIERREZ, ANTHONY HERNANDEZ, DAVID JUST, LLOYD  
 25 NELSON, JR., BINH NGUYEN, ERIC PENA, STEVEN PRIETO, VICTOR  
 26 RAMIREZ, DARREN ROBINSON, JUSTIN RUSSELL, JAE SEUNG, WAI HENG  
 27 SOOHOO, EUGENIO STEWART, ARTURO VALENCIA, ROBERT VIEIRA, RYAN  
 28 WELLS, EMMETT WILKS, JR., ROGER YU, ANDREW ZAMORA, JOSE ZAMORA.



1 161. Most of these above-named individual plaintiffs lost their peace officer jobs  
2 because they were disqualified in the polygraph examination and/or background investigation  
3 process. Some of these individual plaintiffs lost their peace officer jobs because they  
4 allegedly "failed" the medical and/or psychological examinations for one reason or another.  
5 And, some of these individual plaintiffs lost their peace officer jobs because they allegedly  
6 stated inaccuracies in their medical questionnaire.

7 162. This particular cause of action for violation of civil rights under 42 U.S.C.  
8 applies to the following named individual defendants who were background investigators  
9 and employees of Defendants LA COUNTY and LASD: LEE BACA, LARRY WALDIE,  
10 ED ROGNER, KEVIN HEBERT, WILLIAM FUJIOKA, PAMELA JOHNSON, GARY  
11 GREENWOOD, ANDREW JACOB, KEVIN ZABORNIAK, CECILIA RAMIREZ, JOE  
12 SALAS, JILL DESCHAMPS, REGINALD MEREDITH, RICHARD CONLEY, JR.,  
13 WILLIAM KENNEDY, ROBERT ENGEL, DEPUTY BASS, KEITH SMITH, GARRETT,  
14 RALPH PLASENCIA, ANGELA HUNT, and DOES 1 through 100, inclusive,

15 163. At all times herein mentioned, 42 U.S.C. §1983, et seq. were in full force and  
16 effect. This statutory scheme was designed to prevent the deprivation of civil rights by  
17 individuals acting under the color of state or local law.

18 164. Each of the named plaintiffs in this cause of action had been peace officers of  
19 the former OPS, a law enforcement agency operated under the aegis and jurisdiction of Co-  
20 Defendant LA COUNTY (which is not named as a party defendant in this cause of action).  
21 When each of the named plaintiffs herein had been peace officers employed by the OPS, they  
22 were considered to be employees of Co-Defendant LA COUNTY. Each were also  
23 considered to be employees of Co-Defendant LA COUNTY who could only be terminated  
24 for "good cause". They were not "at will" employees who could be terminated with or  
25 without a good reason and with or without notice of that so-called "good reason". Before  
26 each could be effectively termination from their peace officer position, each was entitled to  
27 some type of due process hearing ("Skelly-type" hearing or "liberty interest" hearing or any  
28 similar type of hearing with notice of the reasons for their particular dismissal from the

1 employment of Co-Defendant LA COUNTY and with an ability to challenge the so-called  
2 reasons before an impartial and neutral fact-finder and decision-maker).

3 165. Each of the named plaintiffs in this cause of action had a legitimate claim of  
4 entitlement to their respective careers as a peace officer, which, plaintiffs contend, gave rise  
5 to a protected property interest that imposed a significant limitation on the discretion of the  
6 individual decision-makers. This property interest arose both under state law and under the  
7 Fifth Amendment to the United States Constitution.

8 166. Each of the named plaintiffs in this cause of action also had a legitimate claim  
9 of entitlement to their reputation interest as peace officers. This reputation interest also  
10 imposed a significant limitation on the discretion of the individual decision-makers.

11 167. Each of the named plaintiffs in this cause of action were subjected to dismissal  
12 as peace officers because of allegations arising from their required submission to one or more  
13 polygraph examinations and to a background investigation. Each of the named plaintiffs in  
14 this cause of action therefore claim that they had and/or have a liberty interest in their  
15 employment and in their reputation which is protected by the Due Process Clause of the  
16 Fourteenth Amendment to the United States Constitution, since their ultimate dismissal  
17 effectively precluded each of them from future work in their chosen profession. In the case  
18 of each plaintiff named herein, the stated reason(s) for their dismissal as peace officers  
19 became part and parcel of their police personnel file and/or other file kept for personnel  
20 purposes, and, under the law of the State of California, these police personnel files would  
21 have to be shared with prospective law enforcement agency employers in California. Thus,  
22 for example, one of the plaintiffs named herein was terminated from his sworn peace officer  
23 position at the former OPS, and was therefore prevented from "laterally transferring" into an  
24 equivalent deputy sheriff position with Co-Defendant LASD because of so-called "illegal  
25 drug use". His polygrapher and/or background investigator had apparently concluded that he  
26 had smoked marijuana when he was a young adult before becoming a peace officer with the  
27 OPS. In all likelihood, a finding that a deputy sheriff/ background investigator with a  
28 prestigious law enforcement organization like Co-Defendant LASD had concluded that this

1 plaintiff was disqualified because of "illegal drug use" would, in effect, be a "death knell" to  
2 future employment with any other law enforcement agency. Co-defendant LASD itself  
3 excluded some of the named plaintiffs herein because of alleged "poor employment history",  
4 in that they had either been terminated or had not been hired with another law enforcement  
5 agency other than the OPS (i.e. before they became OPS officers).

6 168. At all times herein mentioned, the individual defendants named herein were  
7 employees, agents, and/or representatives of Co-Defendants LA COUNTY and/or LASD.  
8 Consequently, each named individual defendant herein was operating under the color and  
9 authority of law.

10 169. Further, at all times herein mentioned, the individual defendants named herein  
11 were decision-makers in determining which former OPS officers would be dismissed from  
12 their peace officer jobs.

13 170. At no time did any of the individual defendants named herein provide the  
14 individual plaintiffs named herein with due process of law as required before an unlawful  
15 taking of a property interest and a reputation interest.

16 171. Each of the individual defendants named in this cause of action violated the  
17 civil rights of the named plaintiffs in this action by making decisions that affected their Fifth  
18 Amendment property interests and their reputation interests without providing each of them  
19 with due process of law under the Fourteenth Amendment. This action is redressable under  
20 42 U.S.C. §§1983, et seq., and also provides each named plaintiff with the full panoply of  
21 remedies available under this federal statutory scheme.

22 172. As a direct result of the unlawful deprivation of the federal civil rights arising  
23 under this cause of action, each named plaintiff herein has sustained, and will continue to  
24 sustain for a period of time, compensatory damages, including, but not limited to, loss of  
25 income and lost future earning capacity, all in an amount according to proof at the trial of this  
26 action.

27 173. As a further direct result of the unlawful deprivation of the federal civil rights  
28 under this cause of action, each named plaintiff herein has sustained, and will continue to

1 sustain for a period of time, general damages, including, but not limited to, loss of income  
2 and lost future earning capacity, all in an amount according to proof at the trial of this action.

3 174. Each named plaintiff is entitled to his or her reasonable attorney's fees  
4 pursuant to 42 U.S.C. §1988(b).

5 175. Each named individual defendant herein acted with malice, oppression, and  
6 fraud, and therefore is liable in punitive damages in an amount according to proof at trial.

7  
8 **TENTH CAUSE OF ACTION**

9 **(DISABILITY DISCRIMINATION- BY THE PLAINTIFFS NAMED BELOW**  
10 **AGAINST DEFENDANTS LOS ANGELES COUNTY AND LOS ANGELES**  
11 **COUNTY SHERIFF'S DEPARTMENT- VIOLATIONS OF THE FEHA FOR**  
12 **AUTHORIZING AND REQUIRING PRE-EMPLOYMENT AND/OR POST-**  
13 **EMPLOYMENT OR MEDICAL AND PSYCHOLOGICAL EXAMINATIONS**  
14 **RESULTING IN WRONGFUL TERMINATION OF PEACE OFFICER JOBS**  
15 **OR A CREATION OF A RECORD IN THEIR POLICE PERSONNEL FILE**  
16 **OR OTHER FILE KEPT FOR PERSONNEL PURPOSES)**

17 176. Plaintiff's reallege and incorporate herein those matters contained in paragraphs  
18 1 through 175 as though fully set forth.

19 177. The following plaintiffs are named in this particular cause of action:  
20 MICHAEL GAMST, CHRISTOPHER GERAKIOS, JESUS GUERRERO, JAE SEUNG,  
21 EUGENIO STEWART, ARTURO VALENCIA, RYAN WELLS, ANDREW ZAMORA.  
22 All of these plaintiffs named herein had to take *pre-employment* and/or post-employment  
23 medical and psychological examinations.

24 178. Defendants LA COUNTY and LASD have taken the position that the plaintiffs  
25 named in this Complaint were to be treated as if they were "new hires" for the deputy sheriff  
26 position at Defendant LASD.

27 179. Each of the plaintiffs named in this cause of action had "passed" the polygraph  
28 examination(s) and background investigation, and were then required to take a *pre-*

1 *employment* and/or a post-employment medical and psychological examination before being  
2 “hired” as deputy sheriffs by Defendants LA COUNTY and LASD. The plaintiffs named  
3 herein were then disqualified from being transferred into the deputy sheriff position, or after  
4 being transferred into the deputy sheriff position, either because they were believed to be  
5 physically and/or mentally disabled, and/or because they were perceived to have been lying  
6 as to the existence or non-existence of some prior medical or psychological condition when  
7 filling out a medical questionnaire form. In either case, their respective police personnel file  
8 or other file kept for personnel purposes on each disqualified plaintiff was documented with  
9 the disqualification.

10 180. The plaintiffs named herein disagree with the position that they were “new  
11 hires”. Regardless, each plaintiff named in this cause of action contends he or she was  
12 unlawfully subjected to discrimination based on a perceived and/or actual physical and/or  
13 mental disability.

14 181. At all times herein mentioned, Defendant LASD had a written policy requiring  
15 members of their Department to comply with the Americans With Disabilities Act of 1990  
16 (hereafter ADA Act of 1990 or the ADA). In pertinent part, the written policy of Defendant  
17 LASD precluded giving *pre-employment* medical and psychological examinations. In  
18 pertinent part, this written policy provided as follows:

19 A) “The (LASD) cannot refuse to hire or promote you because of your  
20 disability if you can perform the essential functions of the job with an accommodation.”

21 B) “If you are applying for a job, (the LASD) may not ask you if you are  
22 disabled or ask about the nature or severity of your disability. (The LASD) can ask if you  
23 can perform the essential functions of the job with or without reasonable accommodation.  
24 The (LASD) can also ask you to describe or to demonstrate how, with or without reasonable  
25 accommodation, you will perform the duties of the job.”

26 C) “(The LASD) may not require you to take a medical examination before  
27 you are offered a job. (The LASD) may condition a job offer on your passing a medical  
28 examination, but only if all candidates for that job have to pass the examination. However



1 (the LASD) may not reject you because of information about a disability that is revealed by  
2 the medical examination, unless the reasons for rejection are job-related and consistent with  
3 business necessity.”

4 182. Further, at all times herein mentioned, it was unlawful under the FEHA and  
5 considered to be discrimination based on disability in the State of California for any  
6 employer, including any law enforcement agency, to require applicants for a position to take  
7 a *pre-employment* medical and/or psychological examination.

8 183. Based on both their own written policies and on the law of the State of  
9 California and the United States, as aforesaid, Defendants LA COUNTY and LASD acted  
10 unlawfully by requiring *pre-employment* and/or post-employment medical and psychological  
11 examinations, and caused the hereinafter described damage to the named plaintiffs in this  
12 cause of action.

13 184. As a result of the unlawful disability discrimination mentioned herein, each  
14 named plaintiff in this cause of action is entitled to an award of both economic and non-  
15 economic damages in an amount according to proof at the trial of this action.

16 185. Moreover, for those named plaintiffs herein who ultimately were  
17 “disqualified” from a peace officer position because of a perceived and/or actual disability as  
18 a result of the administration of the *pre-employment* medical and psychological  
19 examinations, documentation of the examination results was placed in their respective police  
20 personnel file and/or other file kept for personnel purposes. On information and belief,  
21 Defendants unlawfully disseminated information about the disqualifications and reasons for  
22 disqualification to individuals within Defendant LA COUNTY who should not have had  
23 access to the information pursuant to Penal Code §832.7 and its subdivisions, and without  
24 first complying with the provisions of Evidence Code §1043, thus also causing additional  
25 economic and non-economic damage in an amount according to proof at the trial.

26 186. Each plaintiff named in this cause of action, as well his counsel of record, is  
27 entitled to an award of attorney’s fees and reasonable costs in an amount according to proof  
28 pursuant to Government Code §12965(b).



**ELEVENTH CAUSE OF ACTION**

**(DISABILITY DISCRIMINATION- BY THE PLAINTIFFS NAMED BELOW  
AGAINST DEFENDANT LOS ANGELES COUNTY AND DEFENDANT LOS  
ANGELES COUNTY SHERIFF'S DEPARTMENT - VIOLATIONS OF THE  
FEHA FOR NOT AUTHORIZING AND REQUIRING "AGE APPROPRIATE"  
MEDICAL EXAMINATIONS RESULTING IN WRONGFUL TERMINATION  
OF PEACE OFFICER JOBS OR A CREATION OF A RECORD IN THEIR  
POLICE PERSONNEL FILE OR OTHER FILE KEPT FOR PERSONNEL  
PURPOSES)**

187. Plaintiffs reallege and incorporate herein those matters contained in paragraphs 1 through 186 as though fully set forth.

188. The named plaintiffs in this cause of action are: MICHAEL GAMST, CHRISTOPHER GERAKIOS, JESUS GUERRERO, JAE SEUNG, EUGENIO STEWART, ARTURO VALENCIA, RYAN WELLS, ANDREW ZAMORA. All of these plaintiffs named herein were required to take medical and/or psychological examinations that were not "age appropriate", resulting in their termination from police officer positions.

189. In this particular lawsuit, there are a total of 43 named plaintiffs. As noted previously, 34 of those plaintiffs were disqualified, either because they did not "pass" the polygraph/ background process or because they disqualified for medical/ psychological reasons. Of these 34 disqualified plaintiffs, 26 of them "failed" the polygraph/background, and 8 were medically/ psychologically disqualified.

190. Each of the plaintiffs named in this cause of action had "passed" the polygraph examination(s) and background investigation, and were then required to take a *pre-employment* and/or post-employment medical and psychological examination before being "hired" as deputy sheriffs by Defendants LA COUNTY and LASD. The plaintiffs named herein were then disqualified from being transferred into the deputy sheriff position, or after being transferred into the deputy sheriff position, either because they were believed to be physically and/or mentally disabled, and/or because they were perceived to have been lying

1 as to the existence or non-existence of some prior medical or psychological condition when  
2 filling out a medical questionnaire form. In either case, their respective police personnel file  
3 or other file kept for personnel purposes was documented with the disqualification.

4 191. At all times herein mentioned, each of the plaintiffs named in this cause of  
5 action were qualified individuals with a disability, in that: (A) they were perceived by the  
6 named defendants herein to have a disqualifying physical and/or mental disability; and/or,  
7 (B) they each had a physical or mental disability under the FEHA that substantially impacted  
8 a major life activity; and (C) they could nevertheless perform their respective essential duties  
9 as a police officer with or without a reasonable accommodation.

10 192. As previously noted herein, on or about December 15, 2009, it was represented  
11 by Defendants LA COUNTY and LASD that the medical and psychological examinations to  
12 be administered to those former OPS officers would be "age appropriate".

13 193. Each plaintiff named herein was 39 years of age or younger as of September  
14 30, 2010. Although each plaintiff was not in an age-protected class under the FEHA or  
15 equivalent federal law, nevertheless, each plaintiff named herein, due to his or her age and  
16 due to his or her prior years of experience as a peace officer, was exposed for a significant  
17 period of time to the harsh physical and/or mental demands of the job. Generally, each would  
18 be expected to have physical and/or mental conditions that were less optimal for police work  
19 than those physical and/or mental conditions of a younger "new hire" who had to pass  
20 physical agility and mental competency tests to even become a police officer at any agency in  
21 the State of California. Because Defendants LA COUNTY and LASD were treating the  
22 former OPS officers as "new hires", it was critical that Defendants avoided the  
23 discrimination based on disability classifications that would necessarily be expected to result  
24 when experienced police officers were being evaluated in the same manner as if they were  
25 high school or college graduates in their early 20's seeking their first police job. The most  
26 significant way to ensure that the plaintiffs named herein were not treated differently based  
27 on their protected class characteristics was to ensure that "age appropriate" medical and  
28 psychological examinations were administered.

1           194. In fact, "age appropriate" medical and psychological examinations were not  
2 administered to the named plaintiffs in this cause of action, causing each plaintiff so named  
3 herein to be subjected to unlawful disability discrimination on account of his or her physical  
4 and/or mental disability.

5           195. Moreover, already-employed deputy sheriffs of Defendant LASD who were of  
6 a similar age and experience as the named plaintiffs herein were not required to take the same  
7 medical and/or psychological examinations as a condition of keeping their peace officer jobs.  
8 The fact that the named plaintiffs herein were treated as "new hires" and had to take medical  
9 and psychological examinations that were not "age appropriate" led to a tremendous inequity  
10 and disparate impact on treatment of law enforcement employees of Defendant LA  
11 COUNTY. For example, one particular plaintiff was disqualified from a peace officer job  
12 because of not passing a phase of the hearing test; yet, other already-employed deputy  
13 sheriffs of a similar age and experience did not have to take this hearing test and, in fact,  
14 could have had a far worse hearing condition that would disqualify him or her from being a  
15 deputy sheriff.

16           196. Each named plaintiff herein was subjected to unlawful disability discrimination  
17 under the FEHA because of the allegations set forth in this cause of action, and has been  
18 damaged thereby.

19           197. As a result of the unlawful disability discrimination mentioned herein, each  
20 named plaintiff in this cause of action is entitled to an award of both economic and non-  
21 economic damages in an amount according to proof at the trial of this action.

22           198. Moreover, for those named plaintiffs herein who ultimately were  
23 "disqualified" from a peace officer position because of a perceived and/or actual disability as  
24 a result of the administration of the pre-employment and non "age appropriate" medical and  
25 psychological examinations, documentation of the examination results was placed in their  
26 respective police personnel file and/or other file kept for personnel purposes. On information  
27 and belief, Defendants unlawfully disseminated information about the disqualifications and  
28 reasons for disqualification to individuals within Defendant LA COUNTY who should not

1 have had access to the information pursuant to Penal Code §832.7 and its subdivisions, and  
 2 without first complying with the provisions of Evidence Code §1043, thus also causing  
 3 additional economic and non-economic damage in an amount according to proof at the trial.

4 199. Each plaintiff named in this cause of action, as well his counsel of record, is  
 5 entitled to an award of attorney's fees and reasonable costs in an amount according to proof  
 6 pursuant to Government Code §12965(b).

#### 7 8 TWELFTH CAUSE OF ACTION

9 (DISABILITY DISCRIMINATION- BY THE PLAINTIFFS NAMED BELOW  
 10 AGAINST DEFENDANTS LOS ANGELES COUNTY AND LOS ANGELES  
 11 COUNTY SHERIFF'S DEPARTMENT - VIOLATIONS OF THE  
 12 FEHA RESULTING IN WRONGFUL TERMINATION)

13 200. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
 14 1 through 199 as though fully set forth.

15 201. The named plaintiffs in this cause of action are: MICHAEL GAMST,  
 16 CHRISTOPHER GERAHIOS, JESUS GUERRERO, JAE SEUNG, EUGENIO STEWART,  
 17 ARTURO VALENCIA, RYAN WELLS, ANDREW ZAMORA.

18 202. Each of the plaintiffs named in this cause of action had "passed" the polygraph  
 19 examination(s) and background investigation, and were then required to take a non-"age  
 20 appropriate" pre-employment or post-employment medical and psychological examination as  
 21 a condition of being "hired, or as a condition of remaining "hired", as deputy sheriffs by  
 22 Defendants LA COUNTY and LASD. The plaintiffs named herein were then disqualified  
 23 from being transferred into the deputy sheriff position, or after being transferred into the  
 24 deputy sheriff position, either because they were believed to be physically and/or mentally  
 25 disabled, and/or because they were perceived to have been lying as to the existence or non-  
 26 existence of some prior medical or psychological condition when filling out a medical  
 27 questionnaire form. In either case, their respective police personnel file or other file kept for  
 28 personnel purposes was documented with the disqualification.

1        203. At all times herein mentioned, each of the plaintiffs named in this cause of  
2 action were qualified individuals with a disability, in that: (A) they were perceived by the  
3 named defendants herein to have a disqualifying physical and/or mental disability; and/or,  
4 (B) they each had a physical or mental disability under the FEHA that substantially impacted  
5 a major life activity; and (C) they could nevertheless perform their respective essential duties  
6 as a police officer with or without a reasonable accommodation.

7        204. At all times herein mentioned, each of the plaintiffs named in this cause of  
8 action were subjected to disability discrimination because they were ipso facto disqualified  
9 from the deputy sheriff position with Defendant LASD because of an actual and/or perceived  
10 physical or mental disability that did or did not substantially impact a major life activity  
11 under the FEHA, and because each of them could nevertheless perform their respective  
12 essential duties as a police officer with or without a reasonable accommodation. Each  
13 plaintiff named in this cause of action alleges that this disqualification amounted to a  
14 wrongful termination in violation of public policy due to disability discrimination in breach  
15 of relevant state and federal law.

16        205. At all times herein mentioned, each of the plaintiffs named in this cause of  
17 action were subjected to disability discrimination for physical, medical, and/or psychological  
18 conditions that did not constitute a bona fide occupational disqualifying factor from being a  
19 peace officer in the State of California.

20        206. As a result of the unlawful disability discrimination mentioned herein, each  
21 named plaintiff in this cause of action is entitled to an award of both economic and non-  
22 economic damages in an amount according to proof at the trial of this action.

23        207. Moreover, for those named plaintiffs herein who ultimately were  
24 "disqualified" from a peace officer position because of a perceived and/or actual disability as  
25 a result of the administration of the *pre-employment* or post-employment medical and  
26 psychological examinations, documentation of the examination results was placed in their  
27 respective police personnel file and/or other file kept for personnel purposes. On information  
28 and belief, Defendants unlawfully disseminated information about the disqualifications and



1 reasons for disqualification to individuals within Defendant LA COUNTY who should not  
 2 have had access to the information pursuant to Penal Code §832.7 and its subdivisions, and  
 3 without first complying with the provisions of Evidence Code §1043, thus also causing  
 4 additional economic and non-economic damage in an amount according to proof at the trial.

5 208. Each plaintiff named in this cause of action, as well his counsel of record, is  
 6 entitled to an award of attorney's fees and reasonable costs in an amount according to proof  
 7 pursuant to Government Code §12965(b).

8 209. On information and belief, the aforesaid disability discrimination was  
 9 intentional, since Defendants LA COUNTY and LASD had an agenda to eliminate a  
 10 particular number of the former OPS officers. Consequently, because those specific numbers  
 11 were not met in the initial phase of the process by disqualifying the former OPS officers  
 12 based on their respective polygraph examination(s) and/or background investigation,  
 13 additional numbers had to be eliminated through the medical and psychological examination  
 14 process.

### 15 **THIRTEENTH CAUSE OF ACTION**

16  
 17 **(WILLFUL FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS TO**  
 18 **IDENTIFY REASONABLE ACCOMMODATIONS UNDER THE FEHA- BY**  
 19 **THE PLAINTIFFS NAMED BELOW AGAINST DEFENDANTS LOS**  
 20 **ANGELES COUNTY AND LOS ANGELES COUNTY SHERIFF'S**  
 21 **DEPARTMENT)**

22 210. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
 23 1 through 209 as though fully set forth.

24 211. The named plaintiffs in this cause of action are: MICHAEL GAMST,  
 25 CHRISTOPHER GERAKIOS, JESUS GUERRERO, JAE SEUNG, EUGENIO STEWART,  
 26 ARTURO VALENCIA, RYAN WELLS, ANDREW ZAMORA

27 212. Each of the plaintiffs named in this cause of action had "passed" the initial  
 28 polygraph examination(s) and background investigation(s), but had been disqualified from



1 being permitted to transfer into a deputy sheriff position with Defendant LASD because of an  
2 actual and/or perceived physical or mental disability, or because they purportedly lied in  
3 completing a medical questionnaire form as to the existence or non-existence of a physical or  
4 mental condition.

5 213. At all times herein mentioned, each of the plaintiffs named in this cause of  
6 action were qualified individuals with a disability, in that: (A) they were perceived by the  
7 named defendants herein to have a disqualifying physical and/or mental disability; and/or,  
8 (B) they each had a physical or mental disability under the FEHA that substantially impacted  
9 a major life activity; and (C) they could nevertheless perform their respective essential duties  
10 as a police officer with or without a reasonable accommodation.

11 214. At all times herein mentioned, the FEHA statutory scheme was in full force and  
12 effect. This statute, as well implementing codes and regulations, required that employers and  
13 employees engage in the interactive process in good faith for the purpose of identifying  
14 reasonable accommodations before terminating a qualified employee with either a physical  
15 and/or mental disability.

16 215. Defendants LA COUNTY and LASD did not, at any time herein mentioned,  
17 engage in the interactive process in good faith to identify a reasonable accommodation for  
18 each plaintiff named herein so that he or she could retain his or her peace officer status and  
19 keep his or her law enforcement position. Each named plaintiff in this cause of action was, at  
20 all times, willing to engage in the interactive process in good faith to identify a reasonable  
21 accommodation, but were thwarted in doing so by the named defendants herein. For these  
22 plaintiffs in this cause of action, a reasonable accommodation was not to be placed into a  
23 "civilian" position with Defendant LA COUNTY.

24 216. At all times herein mentioned, Defendants LA COUNTY and LASD took the  
25 position they were engaging in the interactive process in good faith, since some of the  
26 plaintiffs named herein were placed in "civilian" jobs in LA COUNTY, mostly at a reduced  
27 level of pay and benefits. These defendants, however, refused to appreciate that comparing  
28 law enforcement careers with "civilian" careers was like comparing apples and oranges, and

1 that a willful failure to engage in the interactive process to identify reasonable  
2 accommodations for otherwise qualified peace officers in the law enforcement field caused  
3 substantial economic and non-economic damage to the plaintiffs named herein, all of whom  
4 had devoted their lives and who had placed their lives on the line for the community.

5 217. On information and belief, Defendants LA COUNTY and LASD, had they  
6 engaged in the interactive process in good faith, could have reasonably accommodated the  
7 perceived and/or actual disabilities of the named plaintiffs herein by allowing each of them to  
8 retain their law enforcement status in some reasonable manner.

9 218. As a result of the aforesaid willful refusal of the named defendants herein to  
10 engage in the interactive process in good faith (for the purpose of identifying reasonable  
11 accommodations), each named plaintiff in this cause of action was terminated and/or  
12 disqualified from a law enforcement job and is entitled to an award of both economic and  
13 non-economic damages in an amount according to proof at the trial of this action.

14 219. Moreover, for those named plaintiffs herein who ultimately were  
15 "disqualified" from a peace officer position because of a perceived and/or actual disability as  
16 a result of the administration of the pre-employment and non "age appropriate" medical and  
17 psychological examinations, documentation of the examination results was placed in their  
18 respective police personnel file and/or other file kept for personnel purposes. On information  
19 and belief, Defendants unlawfully disseminated information about the disqualifications and  
20 reasons for disqualification to individuals within Defendant LA COUNTY who should not  
21 have had access to the information pursuant to Penal Code §832.7 and its subdivisions, and  
22 without first complying with the provisions of Evidence Code §1043, thus also causing  
23 additional economic and non-economic damage in an amount according to proof at the trial.

24 220. Each plaintiff named in this cause of action, as well his counsel of record, is  
25 entitled to an award of attorney's fees and reasonable costs in an amount according to proof  
26 pursuant to Government Code §12965(b).

27 221. On information and belief, the aforesaid refusal to engage in the interactive  
28 process in good faith (for the purpose of identifying reasonable accommodations) was

1 intentional, since Defendants LA COUNTY and LASD had an agenda to eliminate a  
 2 particular number of the former OPS officers. Consequently, because those specific numbers  
 3 were not met in the initial phase of the process by disqualifying the former OPS officers  
 4 based on their respective polygraph examination(s) and/or background investigation,  
 5 additional numbers had to be eliminated through the medical and psychological examination  
 6 process.

#### 7 8 FOURTEENTH CAUSE OF ACTION

9 (INVASION OF PRIVACY- BROUGHT BY ALL THE PLAINTIFFS  
 10 NAMED BELOW AGAINST THE DEFENDANTS NAMED BELOW-  
 11 ARISING UNDER GOVERNMENT CODE §§ 815.2(a); 815.4, AND  
 12 815.6)

13 222. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
 14 1 through 221 as though fully set forth.

15 223. This cause of action applies to plaintiffs named in this Complaint who did not  
 16 "pass" either their polygraph examination(s) and/or background investigation, and who were  
 17 excluded from retaining their peace officer jobs for such stated reasons as "poor employment  
 18 history", "integrity", "judgment", "financial irresponsibility", "illegal sex acts", "illegal drug  
 19 use", "criminal conviction", "criminal history", "gang association", "gang affiliation", and  
 20 other specified categories. This cause of action also applies to those plaintiffs who "passed"  
 21 their polygraph examination(s) and background investigation, but were disqualified for  
 22 medical and/or psychological reasons. This cause of action also applies to the following-  
 23 named plaintiffs who "passed" their polygraph examination(s) and background investigation,  
 24 but were later informed they were disqualified from retaining their peace officer jobs because  
 25 of allegedly lying in filling out their medical questionnaire forms. The identities of the  
 26 individual plaintiff pursuing this cause of action are as follows: MICHAEL GAMST,  
 27 CHRISTIE ACOSTA, PAUL ARROYO, FABIAN BARRAZA, YOLANDA CABADA,  
 28 DARREN COOPER, DANIEL CORTEZ, JR., RONALD CROMWELL, DAVID CUEVAS,

1 ALLEN DAVIS, BASET FATAH, ROBERT GALLEGOS, CHRISTOPHER GERAKIOS,  
 2 JESUS GUERRERO, VICTOR GUTIERREZ, ANTHONY HERNANDEZ, DAVID JUST,  
 3 LLOYD NELSON, JR., BINH NGUYEN, ERIC PENNA, STEVEN PRIETO, VICTOR  
 4 RAMIREZ, DARREN ROBINSON, JUSTIN RUSSELL, JAE SEUNG, WAI HENG  
 5 SOOHOO, EUGENIO STEWART, ARTURO VALENCIA, ROBERT VIEIRA, RYAN  
 6 WELLS, EMMETT WILKS, JR., ROGER YU, ANDREW ZAMORA, JOSE ZAMORA.

7 224. This cause of action does not yet apply to those 9 listed plaintiffs who were  
 8 allowed to "laterally transfer" into a deputy sheriff position, and whose privacy was not  
 9 invaded, although later discovered facts may cause this cause of action to be amended to  
 10 include additional plaintiffs. Therefore, the following plaintiffs named in this Complaint are,  
 11 at this time, excluded from this cause of action: KEVIN ADAMS, RYAN BODILY,  
 12 MICHAEL GREENE, JOHN KLEE II, JUAN LOZANO, JORGE LAZARO, XAVIER  
 13 RIVAS, ROBERT ROMERO, and MANUAL SANDOVAL.

14 225. The following statutes are applicable to this cause of action because public  
 15 entities and its employees are involved: Government Code §815.2(a)—public entity liable for  
 16 injury proximately caused by an act or omission of the public entity within the scope of his or  
 17 her employment; Government Code §815.4—public entity liable for injury proximately  
 18 caused by independent contractor of the public entity under expressed circumstances; and,  
 19 Government Code §815.6—public entity under a mandatory duty imposed by statute  
 20 designed to protect against a particular kind of injury is liable for a failure to discharge its  
 21 duty under expressed circumstances;

22 226. At all times herein mentioned, the plaintiffs named in this cause of action were  
 23 private persons and not actual or limited public figures.

24 227. Defendant CAPTAIN KEVIN HEBERT, as the Director of Personnel  
 25 Administration of Co-Defendant LASD, and acting in concert with and pursuant to the  
 26 direction of Co-Defendants BACA, WALDIE, and ROGNER, wrote each of the named  
 27 plaintiffs in paragraph 254 a disqualifying letter, informing them that they had "failed" their  
 28 polygraph examination(s) and/or background investigations, and stated the reasons for their

1 reputed failure. In each case, these letters were mailed to the named plaintiffs in paragraph  
2 254 by third parties acting on behalf of Captain HEBERT.

3 228. Each of the named plaintiffs mentioned in paragraph 254 were invited to  
4 appeal from the disqualification to the Department of Human Resources of Defendant LA  
5 COUNTY, and, in fact, many of them did. In appealing from the disqualification, each of  
6 those named plaintiffs was required to republish the reasons stated for their disqualification  
7 per the letter written by Defendant HEBERT. Those plaintiffs named herein who appealed  
8 from the disqualification uniformly received back letters from Co-Defendant LISA  
9 GARRETT, the Director of Personnel for Defendant LA COUNTY, and from Co-Defendant  
10 RALPH PLASENCIA, a human resources analyst for the Personnel Department in  
11 Defendant LA COUNTY, to the effect that their appeal had been denied and the reasons  
12 stated for the denial. Accordingly, civilian employees of Defendant LA COUNTY were  
13 permitted to see records that were supposed to be confidential pursuant to the Penal Code and  
14 other pertinent statutes regarding the "official information" privilege in the Evidence Code,  
15 all of which regulated the information that could be disclosed from police personnel files.

16 229. Further, as to some of those plaintiffs named herein, Defendant CEO  
17 WILLIAM FUJIOKA signed public letters claiming that those plaintiffs were deceptive and  
18 lying in filling out medical questionnaire forms. Private medical information was publically  
19 disclosed in each of the letters of disqualification, which was a violation of the HIPAA  
20 (Health Insurance and Portability and Accountability Act of 1996) rules regarding the privacy  
21 of medical information.

22 230. Further, as to some of those plaintiffs named herein, Defendant CEO  
23 WILLIAM FUJIOKA and Defendant KEITH SMITH, a Program Monitor for Occupational  
24 Health Programs working under Defendant CEO FUJIOKA, wrote public letters to those  
25 plaintiffs, informing them they had "failed" their psychological examination.

26 231. Moreover, in order to preserve some of the remedies requested in this  
27 Complaint, counsel for the plaintiffs named herein were required to file Government Claims,  
28 exhaust administrative appeals where necessary, and file administrative complaints alleging



1 discrimination with the DFEH. Therefore, additional public republications of the  
2 unauthorized and unlawful disclosures of private police personnel information were  
3 necessary in order preserve plaintiffs' entitlement to remedies and damages under state and  
4 federal law.

5 232. On information and belief, it appears that Defendant LA COUNTY and  
6 Defendant LASD allowed private police and official information about the plaintiffs named  
7 herein to be shared with their civilian employees. Thus, for example, in attempting to find  
8 "civilian" jobs for the named plaintiffs herein who were disqualified from retaining their  
9 peace officer status, private police and official information about the named plaintiffs herein  
10 and their reasons for not "passing" the polygraph examinations and/or background  
11 investigation were shared by police officers with civilian employees of Defendant LA  
12 COUNTY who did not have either a right or need to know that information.

13 233. Background investigators, many of whom have been named as defendants in  
14 this Complaint, often shared private information disclosed in their investigation with un-  
15 authorized persons. For example, a plaintiff in the second lawsuit (i.e. under age 40)  
16 confidentially disclosed to his background investigator that the reason he may have appeared  
17 to register "deceptive" on his polygraph examination to a question regarding domestic  
18 violence was because he had cheated on his wife several years ago. That background  
19 investigator then interviewed that particular plaintiff's wife and told her words to the effect  
20 of "did you know that your husband is cheating on you?"

21 234. At the time that each of these named plaintiffs named in this cause of action  
22 took the polygraph examination(s) and were the subject of a background investigation, or  
23 were taking pre-employment medical and psychological examinations, they were sworn  
24 police officers whose personnel files and any information about their private medical  
25 information, their history and their abilities as police officers was absolutely protected from  
26 disclosure to the public by Penal Code §832.7 and by the official information privileges  
27 contained in Evidence Code §§1040, 1043, 1044, 1045, 1046, and 1047 (or any of the  
28 particular subdivisions of the statute). In fact, the Attorney General of the State of California



1 has opined that the willful disclosure of private and official information about a police officer  
2 is criminal act punishable as a misdemeanor.

3 235. At all times herein mentioned, Penal Code §832.7 and its subdivisions, and as  
4 the statute was interpreted by court cases, police officers have a legitimate expectation of  
5 privacy in their police personnel records. Such police personnel records, for example, are  
6 protected from disclosure under the California Public Records Act and access to those  
7 records cannot be obtained for any reason until a *Pitchess*-type motion is filed and approved  
8 by the court.

9 236. At all times herein mentioned, Penal Code §832.7 and its subdivisions, as well  
10 as the so-called "official information" privilege disclosure statutes under Evidence Code  
11 §§1040, 1043, 1044, 1045, 1046, and 1047 (or any of the particular subdivisions of the  
12 statute), or the federal law regarding HIPAA disclosure procedures and violations, all  
13 imposed a mandatory duty under Government Code §815.6 to protect against the public  
14 disclosure of private information about police officers. The disclosure of private police  
15 officer information which seriously invades the privacy of the particular police officer, and  
16 which ultimately causes economic and non-economic damages to that officer, is a particular  
17 risk of the breach of Penal Code §832.7 and its subdivisions, Evidence Code §§1040, 1043,  
18 1044, 1045, 1046, and 1047 (or any of the particular subdivisions of the statute), or the  
19 federal law regarding HIPAA disclosure procedures and violations. Therefore, the  
20 defendants named herein are liable for invading that privacy of each plaintiff named herein  
21 pursuant to the mandatory duty provisions of Government Code §815.6, both for their own  
22 actual liability and for any vicarious liability arising from acts within the course and scope of  
23 employment pursuant to Government Code §820.2 through §823.

24 237. The aforesaid disclosures in violation of statute invaded the privacy of each of  
25 the named plaintiffs herein, was the type of subject matter which would be highly offensive  
26 to any reasonable person, were not newsworthy, and painted each of them in a false light,  
27 causing the hereinafter described damages.

28 238. At no time did any plaintiff named in this cause of action give consent to, nor

1 did they waive, the tortious and unlawful acts of any of the named defendants herein.

2 239. At all times herein mentioned, the aforesaid actions were not privileged, were  
3 not subject to any immunity, and were in fact accomplished by malice.

4 240. As a direct result of the aforesaid invasion of privacy, each plaintiff named  
5 herein has sustained, and will continue to sustain for a period of time, economic and non-  
6 economic damages in an amount according to proof at the trial of this action.

7 241. This cause of action for invasion of privacy applies to the institutional  
8 entities—Defendant LA COUNTY and Defendant LASD. It also applies to the following-  
9 named individual defendants—SHERIFF LEE BACA, UNDERSHERIFF LARRY  
10 WALDIE, CAPTAIN ED ROGNER, CAPTAIN KEVIN HEBERT, CEO WILLIAM  
11 FUJIOKA, REGINALD MEREDITH, LISA GARRETT, RALPH PLASENCIA, KEITH  
12 SMITH, ANGELA HUNT, and DOES 1 through 100, inclusive.

13 242. The actions of each of the following named individual defendants was  
14 accomplished by malice, oppression, and fraud, and therefore plaintiffs named herein are  
15 entitled to an award of punitive damages against these individual defendants. Those  
16 individuals named in connection with this punitive damage allegations are: SHERIFF LEE  
17 BACA, UNDERSHERIFF LARRY WALDIE, CAPTAIN ED ROGNER, CAPTAIN  
18 KEVIN HEBERT, CEO WILLIAM FUJIOKA, REGINALD MEREDITH, LISA  
19 GARRETT, RALPH PLASENCIA, KEITH SMITH, ANGELA HUNT, and DOES 1  
20 through 100, inclusive.

21

22

**FIFTEENTH CAUSE OF ACTION**

23

**(BREACH OF DUTY OF FAIR REPRESENTATION- BROUGHT  
24 BY THE PLAINTIFFS NAMED BELOW AGAINST PROFESSIONAL  
25 PEACE OFFICERS ASSOCIATION aka PPOA AND DOES 1  
26 THROUGH 100)**

27

28

243. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
1 through 242 as though fully set forth.

1        244. The plaintiffs named in this cause of action are as follows: MICHAEL  
 2 GAMST, CHRISTIE ACOSTA, PAUL ARROYO, FABIAN BARRAZA, YOLANDA  
 3 CABADA, DARREN COOPER, DANIEL CORTEZ, JR., RONALD CROMWELL,  
 4 DAVID CUEVAS, ALLEN DAVIS, BASET FATAH, ROBERT GALLEGOS,  
 5 CHRISTOPHER GERAKIOS, JESUS GUERRERO, VICTOR GUTIERREZ, ANTHONY  
 6 HERNANDEZ, DAVID JUST, LLOYD NELSON, JR., BINH NGUYEN, ERIC PENA,  
 7 STEVEN PRIETO, VICTOR RAMIREZ, DARREN ROBINSON, JUSTIN RUSSELL, JAE  
 8 SEUNG, WAI HENG SOOHOO, EUGENIO STEWART, ARTURO VALENCIA,  
 9 ROBERT VIEIRA, RYAN WELLS, EMMETT WILKS, JR., ROGER YU, ANDREW  
 10 ZAMORA, JOSE ZAMORA.

11        245. At all times herein mentioned, Defendant PROFESSIONAL PEACE  
 12 OFFICER'S ASSOCIATION was also known as PPOA.

13        246. At all times herein mentioned, Defendant PPOA was a union which represented  
 14 employees of law enforcement organizations of Defendant LA COUNTY.

15        247. On information and belief, most of the plaintiffs named in this cause of action  
 16 were, up until on or about September 30, 2010, dues paying members of Defendant PPOA.  
 17 Some of the plaintiffs named herein, particularly those who were allowed to "laterally  
 18 transfer" into a probationary deputy sheriff position stopped paying dues to PPOA before on  
 19 or about September 30, 2010.

20        248. Defendant PPOA, at the time the plaintiffs named in this cause of action were  
 21 dues-paying members, represented officers from the Office of Public Safety, law  
 22 enforcement employees of the Department of the Coroner, law enforcement employees of the  
 23 LA County District Attorney's Office, and law enforcement employees of the LA COUNTY  
 24 SHERIFF'S DEPARTMENT (rank of Sergeant and above). Defendant PPOA did not  
 25 represent rank-and-file deputy sheriffs of the LA COUNTY SHERIFF'S DEPARTMENT.

26        249. At all times herein mentioned, the leadership of Defendant PPOA were law  
 27 enforcement employees of the rank of Sergeant and above in Defendant LA COUNTY  
 28 SHERIFF'S DEPARTMENT. Thus, for example, in the 2009-2010, the President of the

1 PPOA union was Brian Moriguchi, a lieutenant in Defendant LA COUNTY SHERIFF'S  
2 DEPARTMENT.

3       250. Within one year prior to and then after December 15, 2009, when the aforesaid  
4 public meetings took place regarding the job action against the former OPS, there existed a  
5 major conflict of interest between the plaintiffs named in this cause of action and Defendant  
6 PPOA. The major conflict could be described as follows: As noted, the Frank lawsuit was an  
7 employment discrimination action arising under the FEHA, whereby former OPS plaintiffs  
8 had successfully alleged at the trial court level that the inequities in their treatment, pay, and  
9 benefits vis-a-vis their deputy sheriff counterparts at Defendant LASD was due to racial  
10 and/or national origin discrimination. After the large monetary verdict in the Frank lawsuit  
11 was reversed at the appellate court level, LA COUNTY supervisors led by Don Knabe and  
12 Michael Antonovich "made good" on their public promise to retaliate against the OPS by  
13 announcing the job action of the so-called "workforce reduction/ merger" on or about  
14 December 15, 2009. Defendant LA COUNTY, in concert with the management hierarchy at  
15 Defendant LASD, had an agenda to eliminate many of the former OPS law enforcement  
16 officers and "demote" them either to civilian jobs or to fire them altogether because they (it)  
17 believed that the OPS was a group of "misfits" and was an inferior law enforcement  
18 organization to the Defendant LASD. Defendant PPOA was a union that was supposed to  
19 fight for the rights of its OPS members, but the union itself was managed by law enforcement  
20 employees of the Defendant LASD who themselves had to "report" Co-Defendants  
21 ROGNER, WALDIE, BACA and others. In other words, the PPOA leadership was not  
22 interested in standing up for the rights of its members who were OPS law enforcement  
23 employees, particularly when this leadership also had to follow the orders of its own  
24 employer who believed that the OPS were sub-standard law enforcement employees and who  
25 was a driving force behind the "workforce reduction/ merger". On information and belief,  
26 the leadership of Defendant PPOA, including, but not limited to, PPOA President Brian  
27 Moriguchi was enlisted by management personnel at Defendant LA COUNTY and  
28 Defendant LASD to "sell" the impending job action involving the OPS to its OPS members.

1 In fact, Defendant PPOA's leadership and board of directors publically supported the so-  
 2 called "workforce reduction/ merger", even after the job action was accomplished and the  
 3 PPOA leadership could see the damage it caused to its former OPS law enforcement  
 4 members.

5 251. Defendant PPOA's leadership, including, but not limited to, President Brian  
 6 Moriguchi, made palpably false representations to the plaintiffs named in this cause of action  
 7 in order to secure any alleged waivers to participating in the process of first undergoing the  
 8 polygraph examination(s) and background investigation(s), and then undergoing a new  
 9 medical and psychological examination. The following non-inclusive claims apply in this  
 10 regard:

11 A) The leadership of Defendant PPOA, including, but not limited to, PPOA  
 12 President Brian Moriguchi, misrepresented to the plaintiffs named in this cause of action that  
 13 the transition process of "eliminating" the OPS and participating in the process to be  
 14 employed as a deputy sheriff with Defendant LASD was going to be a "limited" polygraph  
 15 examination and background investigation. The plaintiffs named in this cause of action were  
 16 told, and were led to believe, that the polygraph examination and background investigation  
 17 process would be "limited" to questions of their performance as peace officers when they  
 18 worked for the OPS. The plaintiffs named in this cause of action were not told that the  
 19 polygraph examinations and background investigations would delve into their entire  
 20 childhood and adult lives, such as the type of polygraph examination and background  
 21 investigations that are provided to new hires of law enforcement agencies. Defendant PPOA  
 22 represented, and the plaintiffs named in this cause of action were led to believe, that they  
 23 would not be treated as new hires and instead would be given full consideration as POST-  
 24 certified sworn peace officers. The plaintiffs named in this cause of action were essentially  
 25 led to believe by their union management colleagues at Defendant PPOA that the polygraph  
 26 examinations and background investigation were merely a "formality" in the step to  
 27 becoming absorbed as deputy sheriffs with Defendant LASD.

28 B) The polygraph examination(s) and background investigation(s) were not



1 a mere “formality” as promised by the leadership of Defendant PPOA. For example, one of  
 2 the plaintiffs, who had been a good-performing POST-certified officer with the OPS, was  
 3 disqualified from transitioning into a deputy sheriff position because of “gang affiliation”—  
 4 his background investigator relied on a court document when the plaintiff was a juvenile that  
 5 had been “scaled” from all eyes by a Superior Court Judge. Moreover, many of the plaintiffs  
 6 were hazed like fraternity pledges by their background investigators—e.g. one background  
 7 investigator (Defendant KEVIN ZABORNIAK named in the cause of action regarding  
 8 federal civil rights violations) hazed one 20-year plus OPS officer by telling her to report to a  
 9 room which was really a broom closet, causing Defendant ZABORNIAK and his other  
 10 boorish background investigator colleagues to break down into paroxysms of laughter.

11 C) The leadership of Defendant PPOA, including, but not limited to, PPOA  
 12 President Brian Moriguchi, misrepresented to the plaintiffs named in this cause of action that  
 13 the transition process would include “age appropriate” medical and psychological  
 14 examinations. As noted elsewhere in this Complaint, those plaintiffs named herein who  
 15 “passed” the polygraph examination(s) and background investigation were required to take  
 16 medical and psychological examinations that were not “age appropriate”. The promise of  
 17 “age appropriate” medical and psychological examinations was false when made, and this  
 18 was a critical misrepresentation to the plaintiffs herein because: (1) all but a couple of them  
 19 were over the age of 40 years as of December 15, 2009, and (2) many of them did have some  
 20 medical issues which arose because of their age and, perhaps, because of the physical nature  
 21 and demands of their chosen career.

22 D) The leadership of Defendant PPOA, including, but not limited to, PPOA  
 23 President Brian Moriguchi, misrepresented to the plaintiffs named in this cause of action that  
 24 it was the position of Co-Defendant SHERIFF LEE BACA that those plaintiffs who  
 25 transitioned into deputy sheriff positions would not lose their rank, pay, and/or grade which  
 26 they had as OPS officers. Thus, it was represented, for example, that if an OPS officer with  
 27 12 years seniority as a sergeant transitioned into Defendant LASD, he or she would take the  
 28 job and be paid as a sergeant with 12 years experience in the LASD. In fact, all of the 18



1 named plaintiffs in this lawsuit who were allowed to become officers with the LASD lost  
2 rank, pay, and/or grade upon the transfer.

3 E) The leadership of Defendant PPOA, including, but not limited to, PPOA  
4 President Brian Moriguchi, misrepresented to the plaintiffs named in this cause of action that  
5 PPOA would pay for their respective attorney's fees and legal costs in prosecuting any  
6 necessary cause of action arising out of their loss of a peace officer job. Each of the  
7 plaintiffs named in this cause of action have experienced a loss of their peace officer jobs,  
8 either because they allegedly "failed" the polygraph examination(s) and background  
9 investigation, or because they "failed" the non-"age appropriate" medical and/or  
10 psychological examinations. After the job actions, Defendant PPOA designated and retained  
11 two of the law firms traditionally used to represent its members (i.e. the law firm of Lackie,  
12 Dammeier and McGill and Green and Shinee) to represent the affected plaintiffs. Defendant  
13 PPOA, however, only agreed to pay for attorney's fees and legal costs of these two firms to  
14 represent the plaintiffs named in this cause of action before the Civil Service Commission.  
15 Defendant PPOA refused to pay for the attorney's fees and legal costs of these two firms to  
16 represent the plaintiffs in causes of action related to violations of their rights under the  
17 POBRA, under the FEHA or under Title VII, or under laws protecting civil rights.  
18 Consequently, these union law firms, on specific instruction from PPOA, did not properly  
19 advise plaintiffs of their rights under the POBRA, the FEHA, Title VII, and other potential  
20 remedies for the job action. At the time of this agreement, Defendant PPOA was amply  
21 aware that the adverse employment actions in this case could not be adequately addressed  
22 through the Civil Service Commission, since the Civil Service Commission would only hold  
23 hearings in the event that the particular job action was based on a Rule 25 violation (i.e. job  
24 action based on a Rule 25 merit factor). As noted above, and more specifically, Defendant  
25 PPOA also instructed its law firms not to address any violations of the POBRA or the FEHA  
26 and, on information and belief, instructed these law firms to not advise the plaintiffs named  
27 herein of their respective obligations to file timely Government Claims against Defendant LA  
28 COUNTY and other applicable defendants arising from POBRA violations, or to file timely

1 administrative complaints with the DFEH to preserve their claims for protected class  
2 discrimination, harassment, and retaliation. Moreover, Defendant PPOA instructed its law  
3 firms not to advise the plaintiffs herein that, if they did receive a civil service hearing, they  
4 would otherwise be waiving their right and ability to seek and collect monetary damages for  
5 protected-class discrimination, harassment, and retaliation under the FEHA. Also, Defendant  
6 PPOA actively instructed its designated law firms to "interfere" with plaintiffs' counsel  
7 herein in filing Government Claims, administrative complaints with the DFEH, and in filing  
8 this litigation (i.e. these designated law firms in fact did not follow the instruction of  
9 Defendant PPOA to "interfere" with plaintiffs' current counsel). Finally, upon written  
10 demand by plaintiffs' counsel, Defendant PPOA refused to, and continues to refuse to pay  
11 for, the attorney's fees and legal cost in prosecuting this litigation.

12       252. At all times herein mentioned, Defendant PPOA, as a union for the plaintiffs  
13 named in this cause of action, had a duty under the law to provide "fair representation" for  
14 the plaintiffs. Plaintiffs contend that Defendant PPOA, as set forth above and as according to  
15 further proof in this litigation, breached this duty of "fair representation" to plaintiffs, thereby  
16 causing the hereinafter described damages.

17       253. As a direct consequence of the aforesaid breach of the duty of "fair  
18 representation", plaintiffs demand that Defendant PPOA disgorge the union dues paid by  
19 each plaintiff in an amount according to proof.

20       254. As a further direct consequence of the aforesaid breach of the duty of "fair  
21 representation", plaintiffs demand that Defendant PPOA pay for, and/or reimburse, them and  
22 their counsel herein for the legal costs of preparing for, filing, and representing them in this  
23 litigation. Legal costs include, but are not limited to, filing fees, service of process fees,  
24 motion fees, expert witness costs, costs of deposition transcripts, and other reasonable costs  
25 which are customarily part of the litigation process.

26       255. As a further direct consequence of the aforesaid breach of the duty of "fair  
27 representation", each plaintiff named herein has sustained, and will continue to sustain for a  
28 period of time in the future, compensatory damages and general damages in an amount

1 according to proof at the trial of this action.

2

3

**SIXTEENTH CAUSE OF ACTION**

4

**(CCP 1085- ADMINISTRATIVE WRIT OF MANDAMUS**

5

**AND/OR BREACH OF CONTRACT- AGAINST DEFENDANT**

6

**LOS ANGELES COUNTY)**

7

256. Plaintiffs reallege and incorporate herein those matters contained in paragraphs  
8 1 through 255 as though fully set forth.

9

257. At all times herein mentioned, Defendant LA COUNTY had a clear, present  
10 and ministerial duty to comply with its own personnel rules and regulations, including, but  
11 not limited to, Skelley-type hearings for its employees who are terminated or who suffer  
12 adverse employment actions short of termination.

13 258. The terminations of the following-named plaintiffs from their peace officer  
14 jobs with LA COUNTY breached its own personnel rules and regulations: MICHAEL  
15 GAMST, CHRISTIE ACOSTA, PAUL ARROYO, FABIAN BARRAZA, YOLANDA  
16 CABADA, DARREN COOPER, DANIEL CORTEZ, JR., RONALD CROMWELL,  
17 DAVID CUEVAS, ALLEN DAVIS, BASET FATAH, ROBERT GALLEGOS,  
18 CHRISTOPHER GERAKIOS, JESUS GUERRERO, VICTOR GUTIERREZ, ANTHONY  
19 HERNANDEZ, DAVID JUST, LLOYD NELSON, JR., BINH NGUYEN, ERIC PENA,  
20 STEVEN PRIETO, VICTOR RAMIREZ, DARREN ROBINSON, JUSTIN RUSSELL, JAE  
21 SEUNG, WAI HENG SOOHOO, EUGENIO STEWART, ARTURO VALENCIA,  
22 ROBERT VIEIRA, RYAN WELLS, EMMETT WILKS, JR., ROGER YU, ANDREW  
23 ZAMORA, JOSE ZAMORA.

24 258. "A civil service employee is entitled to a strict interpretation of the statutory  
25 rules for dismissal." *Zeron v. City of Los Angeles* 67 Cal.App.4th 639 (1998). Defendant LA  
26 COUNTY, therefore, has a duty to reinstate Plaintiffs' employment as peace officers and to  
27 also restore the loss of all back-pay and benefits.

28 259. Plaintiffs have exhausted all administrative remedies to compel the relief

1 sought herein. Plaintiffs have no other plain, adequate or speedy remedies in the ordinary  
 2 course of law. Plaintiffs, therefore, are beneficially interested in the compelling of the  
 3 ministerial duty of Defendant LA COUNTY, and as such is entitled to issuance of a writ  
 4 pursuant to California Code of Civil Procedure §§1085-1086.

5 260. Plaintiffs have performed all conditions, covenants, and promises required on  
 6 their respective part to be performed in accordance with the terms and conditions of the  
 7 contract of employment.

8 261. Plaintiffs were dismissed without just cause and/or suffered adverse  
 9 employment actions without being allowed a pre-deprivation Skelly-type hearing or a post-  
 10 deprivation hearing as required under the rules of Defendant LA COUNTY. Defendant LA  
 11 COUNTY's violation of these mandatory regulations and rules constitutes a breach of its  
 12 contract with the plaintiffs named herein. Absent Defendant LA COUNTY's clear breach of  
 13 its own material regulations and rules, the plaintiffs named herein would not have lost their  
 14 peace officer jobs and/or sustained adverse employment actions short of termination.

15 262. Plaintiffs herein pray for the issuance of the required administrative writ to  
 16 reinstate Plaintiffs' jobs as peace officers and/or to enter orders requiring compensation for  
 17 back pay loss, including, but not limited to, retirement and other benefit calculations.

18  
 19 WHEREFORE, Plaintiffs pray for the following relief:

20 First and Second Causes of Action:

- 21 1. For compensatory damages in an amount according to proof.
- 22 2. For general damages in an amount according to proof.
- 23 3. For reasonable attorney's fees and expenses pursuant to Government Code  
 24 §12965(b).

25 Third Through Eighth Causes of Action:

- 26 1. For the maximum civil penalty of \$25,000 for each malicious POBRA  
 27 violation as to each plaintiff, with each polygraph examination being a separate violation (as  
 28 prayed for in the Fifth Cause of Action).

2. For actual (compensatory and general) damages in an amount according to proof.

3. For any injunctive relief which the court can provide in its discretion under the POBRA.

4. For reasonable attorney's fees and costs in prosecuting the case of each plaintiff, either under the POBRA and/or under the "private attorney general" doctrine as mandated in Code of Civil Procedure §1021.5.

Ninth Cause of Action:

1. For compensatory damages in an amount according to proof.

2. For general damages in an amount according to proof.

3. For any injunctive relief which the court can provide in its discretion under a cause of action for violations of federal civil rights.

4. For punitive damages against the individual defendants named and to be named in the Eleventh Cause of Action.

5. For reasonable attorney's fees and expenses pursuant to 42 U.S.C. §1988.

Tenth Through Thirteenth Cause of Action:

1. For compensatory damages in an amount according to proof.

2. For general damages in an amount according to proof.

3. For reasonable attorney's fees and expenses pursuant to Government Code §12965(b).

Fourteenth Cause of Action:

1. For compensatory damages in an amount according to proof.

2. For general damages in an amount according to proof.

3. For punitive damages against the individual defendants named and to be named in this cause of action.

Fifteenth Cause of Action:

1. For compensatory damages in an amount according to proof.

2. For general damages in an amount according to proof.

3. For reimbursement of legal fees and costs in pursuing this action.

1 Sixteenth Cause of Action:

2 1. For the issuance of an administrative writ of mandamus reinstating plaintiffs to  
3 their law enforcement jobs or positions with back pay and other damages allowable by law.

4 On All Causes of Action:

- 5 1. For costs of the suit herein incurred.  
6 2. For such other and further relief as this court may deem proper and just.

7  
8 Dated: March 21, 2011

9  
10 LAW OFFICES OF JOEL W. BARUCH, PC

11  
12 By Joel W. Baruch  
13  
14 Joel W. Baruch, Co-Counsel for All Plaintiffs

15  
16 DEMAND FOR JURY TRIAL

17 All Plaintiffs hercin demand a trial by jury.

18  
19 Dated: March 21, 2011

LAW OFFICES OF JOEL W. BARUCH, PC

20  
21 By Joel W. Baruch  
22  
23 Joel W. Baruch, Co-Counsel for All Plaintiffs



**PROOF OF SERVICE BY OVERNIGHT DELIVERY**

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 South Flower Street, Fiftieth Floor, Los Angeles, California 90071-2300. On May 9, 2011, I deposited with Federal Express, a true and correct copy of the within documents:

**NOTICE OF REMOVAL OF CIVIL ACTION FROM STATE COURT**

in a sealed envelope, addressed as follows:

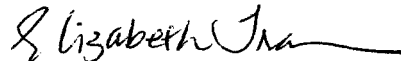
Joel W. Baruch, Esq.  
Nikki Fermin, Esq.  
Law Offices of Joel W. Baruch, P.C.  
2020 Main Street, Suite 900  
Irvine, CA 92614

Thomas A. Pistone, Esq.  
Eric Medel, Esq.  
Mitchell Reichmann, Esq.  
Aaron Watts, Esq.  
Pistone & Wolder LLP  
2020 Main Street, Suite 900  
Irvine, CA 92614-8203

Following ordinary business practices, the envelope was sealed and placed for collection by Federal Express on this date, and would, in the ordinary course of business, be retrieved by Federal Express for overnight delivery on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 9, 2011, at Los Angeles, California.



Elizabeth Tran

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge James V. Selna and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

**SACV11- 707 JVS (RNBx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :  
**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☐ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☒ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) Gamst et al.	<b>DEFENDANTS</b> County of Los Angeles et al.
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  Joel W. Baruch; Law Offices of Joel W. Baruch, P.C., 2020 Main St, Suite 900, Irvine, CA 92614 T: (949) 864-9662; Thomas A. Pistone; Pistone & Wolder LLP, 2020 Main St, Suite 900, Irvine, CA 92614 T: (949) 622-8980	<b>Attorneys</b> (If Known)  Elwood Lui, Christopher Lovrien; Jones Day 555 South Flower Street, Fiftieth Floor Los Angeles, CA 90071 Telephone (213) 489-3939

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2</td> <td>DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td>PTF <input type="checkbox"/> 5</td> <td>DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3</td> <td>DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6</td> <td>DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6														

**IV. ORIGIN** (Place an X in one box only.)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes   ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:** ☐ Yes   ☒ No     **MONEY DEMANDED IN COMPLAINT:** \$ unspecified damages

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Violations of the Fifth and Fourteenth Amendments to the United States Constitution pursuant to 42 U.S.C. s. 1983 based on alleged adverse employment actions.

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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SACV11-00707

FOR OFFICE USE ONLY: Case Number: \_\_\_\_\_

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes  
If yes, list case number(s): CV11 02589 JFW (Ex)

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or  
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Unknown.	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☒ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Defendant Los Angeles County is a resident of Los Angeles County. Defendant Los Angeles County believes substantially all of the other defendants reside in Los Angeles County.	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
All claims arose in Los Angeles County.	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

**X. SIGNATURE OF ATTORNEY (OR PRO PER):** Elwood Luis Lopez Date May 9, 2011

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))